



This is a digital copy of a book that was preserved for generations on library shelves before it was carefully scanned by Google as part of a project to make the world's books discoverable online.

It has survived long enough for the copyright to expire and the book to enter the public domain. A public domain book is one that was never subject to copyright or whose legal copyright term has expired. Whether a book is in the public domain may vary country to country. Public domain books are our gateways to the past, representing a wealth of history, culture and knowledge that's often difficult to discover.

Marks, notations and other marginalia present in the original volume will appear in this file - a reminder of this book's long journey from the publisher to a library and finally to you.

### Usage guidelines

Google is proud to partner with libraries to digitize public domain materials and make them widely accessible. Public domain books belong to the public and we are merely their custodians. Nevertheless, this work is expensive, so in order to keep providing this resource, we have taken steps to prevent abuse by commercial parties, including placing technical restrictions on automated querying.

We also ask that you:

- + *Make non-commercial use of the files* We designed Google Book Search for use by individuals, and we request that you use these files for personal, non-commercial purposes.
- + *Refrain from automated querying* Do not send automated queries of any sort to Google's system: If you are conducting research on machine translation, optical character recognition or other areas where access to a large amount of text is helpful, please contact us. We encourage the use of public domain materials for these purposes and may be able to help.
- + *Maintain attribution* The Google "watermark" you see on each file is essential for informing people about this project and helping them find additional materials through Google Book Search. Please do not remove it.
- + *Keep it legal* Whatever your use, remember that you are responsible for ensuring that what you are doing is legal. Do not assume that just because we believe a book is in the public domain for users in the United States, that the work is also in the public domain for users in other countries. Whether a book is still in copyright varies from country to country, and we can't offer guidance on whether any specific use of any specific book is allowed. Please do not assume that a book's appearance in Google Book Search means it can be used in any manner anywhere in the world. Copyright infringement liability can be quite severe.

### About Google Book Search

Google's mission is to organize the world's information and to make it universally accessible and useful. Google Book Search helps readers discover the world's books while helping authors and publishers reach new audiences. You can search through the full text of this book on the web at <http://books.google.com/>



Soc 3573.1A



HARVARD  
COLLEGE  
LIBRARY





REMARKS  
ON TRANSPORTATION,

AND ON A RECENT

DEFENCE OF THE SYSTEM;

IN A

SECOND LETTER TO EARL GREY.

BY

RICHARD WHATELY D.D.  
ARCHBISHOP OF DUBLIN.

5' LONDON:

B. FELLOWES, LUDGATE STREET.

MDCCCXXXIV.

Soc 3573.1

✓ A



LONDON :

---

R. CLAY, PRINTER, BREAD-STREET-HILL.

# CONTENTS.

	PAGE
Recent Defence of the System . . . . .	1
Discrepancy between its Advocates . . . . .	4
✓ — Incompatible Objects aimed at . . . . .	11
✓ — Reformation and Prevention . . . . .	41
Demoralizing Effects of the System . . . . .	48
Vindication of Authorities referred to . . . . .	58
Alledged Omission of Religious Motives . . . . .	67
✓ The System condemned by its Advocates . . . . .	80
— Vague Supposition of Advantages . . . . .	85
Apparent Benefit to Individuals . . . . .	86
Interests of the Colony preferred to ours . . . . .	93
Proposed Substitutes misrepresented . . . . .	96
✓ Indefensible Character of the System . . . . .	105
Commissioners for Inquiry recommended . . . . .	111
Objections urged against Commissions . . . . .	114
Fallacies relative to humane Conduct . . . . .	125
Advantages to be expected from a Commission . . . . .	130
Requisite Qualifications of Commissioners . . . . .	133

APPENDIX—No. I. . . . .	143
No. II. . . . .	145
No. III. . . . .	149
No. IV. . . . .	153
No. V. . . . .	161
No. VI. . . . .	168
No. VII. . . . .	170





## REMARKS ON TRANSPORTATION.

---

MY LORD,

HAVING lately received from Van Dieman's Land some pamphlets published there, (by Col. Arthur, and others,) containing strictures on my Letter on Secondary Punishments, I am induced to take the liberty of again addressing your Lordship on the same subject.

If indeed the measures recommended by Col. Arthur had been altogether and avowedly unthought of and untried, I should not have deemed any reply from me necessary : since, without any disparagement of that gentleman's character or talents, it may safely be said that there is not the smallest probability of any totally *new* scheme being undertaken by Government (at the present day) on the strength of

such arguments as he adduces. If therefore I had been, in the present instance, the defender and not the assailant, of an existing system, I should have considered that enough had been already said to make good my position.

But I have undertaken the unpleasant office of pointing out—what no one willingly believes of himself,—that we have been for many years proceeding on an erroneous system;—that we have been throwing away much time, toil, and capital, in pursuit of an object which we shall be still the further from obtaining the longer we persevere, and that it is only by retracing our steps, that we can hope even to cease producing positive evil.

Now men are in general so easily satisfied where they earnestly wish to be satisfied, that I cannot but fear a great portion of the public who have not even read, or at least read with close attention, my former Letter to your Lordship, may be inclined to set their minds at rest, on the mere *report*, that, that Letter has been answered by a person on the spot, supposing no reply should appear. They may perhaps be disposed to take for granted, that an attempt

at least has been made (though none in fact has been made) to disprove my statements, and to refute my reasonings; and that a person in the Colony must have a better knowledge of all matters connected with it, than any one in this country, whatever he may adduce in the way of arguments, can pretend to. That the pamphlets in question rest their conclusions almost entirely on conjectures respecting the *future*, (which is the province not of *knowledge* but of reasoning) is indeed apparent on the slightest glance; but even this slight glance is probably more than will be bestowed on them by many, who may yet be disposed to admit those conclusions without inquiry.

Col. Arthur (whose courtesy of language I am bound to acknowledge) transmitted to me, along with the pamphlets, a MS. Letter, in which he gives me to understand, not, that the system hitherto pursued has led to beneficial effects, but that he hopes more favourable results *may, hereafter*, ensue from a material *change* of measures.

My errors therefore, as he is pleased to designate them, appear to consist chiefly in speaking

of things as they have been, and as they are, instead of substituting sanguine anticipations for actual existences.

A pamphlet by Archdeacon Broughton, appended to that by Col. Arthur, coincides with it so far, that both relate principally to expectations of the future, and indulge largely in what Dr. Johnson denominates, "the triumph of hope over experience." But here the coincidence ceases; for unfortunately the measures these two gentlemen recommend with a view to the realizing of their bright anticipations, are in the most important points completely opposed to each other. They agree in both expecting to reach the desired port, though they are for steering in contrary directions. I myself agree with each of them only in condemning the course recommended by the other: but at all events it is impossible to pursue both.

This discrepancy, which I shall presently proceed to point out to your Lordship, is the more remarkable from its occurring in two pamphlets, one of which the *author of the other* appends to

his *own*: "I shall annex," says Col. Arthur (p. 80), "a letter addressed to me, at my request, by the Archdeacon of New South Wales, containing the substance of his remarks during his present visitation, upon the Convict discipline of this Colony. *His opinions and statements do not entirely coincide with those I have advanced*; your Lordship," he proceeded to say, (his pamphlet being in the form of a letter addressed to myself) "will therefore be enabled to compare the results arrived at by individuals, viewing the same object through different media."

I made accordingly, with the utmost care, the comparison to which I am thus frankly invited; and the result of it was to remind me forcibly of the story told of the Irish culprit, who was so excessive in his anxiety to clear himself of the charge by establishing an *alibi*, that he brought forward witnesses to prove *two* alibis. For (to omit minor differences) one of these writers builds his hopes on the system of precluding Convicts from the power of acquiring property; and the other, on that of conceding to them this power.

The fact is, that the objects which the two

writers respectively had in view, are, as I shall presently shew, not the same, but two, distinct, advantages; the benefit of the *Mother-Country*, and that of the *Colony*; both of which, conjointly, we are taught to expect, on the system of transportation, which is defended on that ground; but which are, in fact, by the reluctant confessions of its advocates, totally *incompatible* with each other.

But though it does not very unfrequently happen that opinions and statements which are at variance and mutually destructive, are put forward, separately, by different advocates of the same cause, it did strike me as something novel, to find them thus avowedly and *designedly* brought into juxtaposition. I feel certain that the Colonel would not, in his own profession, have been guilty of so great a military blunder, as that of calling in the support of a body of auxiliaries, who should, in the hope of annoying the enemy, keep up a cross fire on his own troops.

It may perhaps be thought by some of my readers that I might safely have left the different advocates of transportation to refute each other.

And I should probably have done so, if I could have been assured that the pamphlets in question would be read and carefully compared with my former publication, by a large portion of those persons in this country who are anxious for repression of crime, and the welfare of the British empire. Any one who, on such a perusal and comparison, should conclude that my first Letter to your Lordship is in any degree refuted, must be beyond the reach of any arguments that I can devise or conceive. But, as I have already observed, the mere rumour of any thing that professes to be an answer to a book containing *unwelcome* positions, will often be sufficient, unless met by an immediate reply, to satisfy the minds of many, that all is well. Indeed so easy is it to convince those who are prepared and desirous to be convinced, that I remember seeing in an article on the present subject, in some Review, a cursory remark that "We suspect Dr. Whately's representation to be exaggerated;" and the writer then proceeds, without even pretending to adduce any argument or evidence whatever, to assume that by the expression of this *suspicion*, the whole of



what I had brought forward was at once and for ever overthrown.

To meet a multitude of plain arguments—if not unanswerable, at least hitherto unanswered,—and these, based on a mass of the most unimpeachable testimony, some drawn from official documents, and the rest from the statements of men whose opportunities of knowing are indisputable, and whose bias, if they had any, was in an opposite direction—to meet all this by the bare assertion of “We” (*i. e.* some *unknown individual*) not that he *knows*, or is convinced, but that he *suspects* exaggeration—would have been on most subjects regarded as perfectly ridiculous. But the writer probably in this case calculated rightly enough as to the disposition of many of his readers; with whom the mere hint of a *suspicion* of *somebody* might outweigh any amount of evidence in support of what they were unwilling to believe. And considering how strong a bias is thus produced in the mind, it is possible that some may be found who may even rise from the perusal of the pamphlets now before me, satisfied that at least something may be said on both

sides ; and that therefore it is keeping on the safe side to leave things *as they are* ; *i. e.* to persevere in a system which, if it cannot be satisfactorily vindicated, must be not only not removing, but yearly and almost daily augmenting, evils of the most frightful magnitude.

I would not however be understood as disparaging the merit of Col. Arthur's pamphlet, considered as the composition of an advocate ; especially when I consider that (as he informs me in his MS. Letter) he was officially *called on* to reply to my statements and arguments, in consequence of the impression made by them on the public mind. I can estimate the difficulty of "giving a reason on compulsion." And I am far from charging him with incompetency to the task thus imposed. On the contrary, I think that he, and Archdeacon Broughton, and Dr. Ross, the author of another publication on the same subject, have done full justice (taking each of the works *separately*, and not as one whole) to the cause they have undertaken. They have omitted no topic that is likely to have the smallest degree of influence ; and if their attempt to vindicate the system of trans-

portation be, as it appears to me to be, a total failure, I would attribute this to the totally untenable character of their position, rather than to any fault of its defenders.

Col. Arthur indeed apologizes for inaccuracies, on the score of haste : but in point of language I do not observe in his Letter any such incorrectness as to call for censure even from the most fastidious critic. In point of matter and arrangement indeed, it might at first sight be complained that his assumptions are hasty, and his arguments still more so ; and that various different topics are confusedly thrown together in bewildering disorder : but I am inclined to think that in reality (whatever may have been the author's design) to have avoided this perplexing confusion and apparently hurried inaccuracy, would have deprived the whole work of every approach towards plausibility that it may possess. " Then are *we* in order," says Cade to his men, " when we are most out of order." It will be found, on examining the several statements, and rejecting all that are either unsupported or irrelevant,—erasing the arguments that are fallacious, and arranging the remainder distinctly

and perspicuously under their separate heads, that all three of the publications in question (either considered separately, or, still more, taken conjointly) will afford, as far as they have any force at all, the most decisive confirmations of all I had advanced.

In confirmation of the remark I have been compelled to make, I would invite particular attention to one circumstance, which is also of great intrinsic importance, from its general bearing on the present question. It will be found that, not only in the publications I have now been alluding to, but in all vindications of the system of Transportation that have appeared, there is a perpetual confused intermingling of two different questions, and whether from confusion of thought, or from sophistical artifice) a perplexing transition backwards and forwards from the one to the other: I mean, the question as to the benefit of Transportation as a mode of *punishment*, and as a mode of *Colonization*. Each ground of defence is occupied alternately, as soon as the advocate is driven from the

other ; and this continual shifting to and fro, from the one topic to the other, like the tricks of a juggler with cups and balls, distracts the attention, and sometimes wearies the mind into acquiescence.

┌ At one time the advantages of Transportation as a punishment are set forth : then, when the objections to it in this point of view begin strongly to present themselves,—its defectiveness as a discipline for the reformation of criminals, and its still greater inadequacy for the more important object of deterring from crime, the advocate shifts his ground, and pleads the benefit to the *Colony* from this compulsory emigration. When the unfitness of such a mode of colonization,—the absurd, as well as “shameful and unblessed” character (as Bacon designates it) of crowding an infant community with fresh and fresh relays of the scum of mankind, begins to strike the reader, immediately his attention is recalled to the compensating consideration of the mode of punishment thus afforded ; and from this topic again, he is called back to the other ; and so on, without end ; till there is a chance that, if not con-

vinced, he will at least be bewildered, and his attention exhausted.

To exemplify adequately what I have been saying, would be to transcribe the greater part of each of the works in question. The error, or artifice (whichever it may be) which I have described, will be found to pervade almost the whole of every one of them. Indeed the perusal of them strongly recalled to my mind a well-known story which, though probably a fiction invented and related merely for the joke's sake, yet conceals, like many of the fables with which childhood is diverted, an instructive moral, from the close resemblance of many of the fallacies which mislead men in the serious affairs of life, to those which are repeated as jests.

An Oxford scholar, as the tale goes, in taking a country walk, stepped into a rustic ale-house for some refreshment, and, judging from the physiognomy of the landlord that he was somewhat dull in intellect, resolved to make trial of his own logical acumen. He called for a pot of beer, which was brought; and, on asking the price of it, which he was told was two-pence, he said to the landlord, "Well, I have changed

my mind : you shall take back the beer, and bring me instead of it, a penny roll, and a penny-worth of cheese." " Very well, sir." The bread and cheese was brought ; which the scholar ate and was departing. " Stop, sir, stop ! you have forgotten to pay." " Pay !" said the scholar, with affected surprise ; " why what should I pay for ?" " Why for the bread and cheese you have had, to be sure, sir." " My good friend, you forget yourself ; you know I gave you a pot of beer for it." " True sir, but you never paid for the beer." " Why my good man you must be out of your wits ; pay for the beer indeed ! you know as well as I do, I did not drink it."

" Quid rides ?" (one might say to one of the New Holland advocates)

" mutato nomine, de te

Fabula narratur :"

What compensation do you offer for the evil produced by maintaining a system of punishment so inadequate, inefficient, and pernicious, as Transportation ? Oh, the advantage of founding and maintaining a Colony ! But the Colony is by this means settled and stocked in the

worst possible way. Aye, but then you should consider the advantage of having a place of punishment for Convicts !\*

I suspect however that the notion which is lurking in the minds of those persons, is, that these two parts of the system, which are thus brought in to support each other, though separately indefensible, yet conjointly may afford sufficient advantages to justify it :—that though neither the Penitentiary part *alone*, nor the Colonial part alone, is worth the expense and trouble and the numerous incidental evils, which they cost, yet possibly the *combination of the two* may produce a sum of benefit that may compensate for the evils.

It happens unfortunately in the present case, that the measures thus combined for the purpose of supplying each other's deficiencies, and affording mutual compensation for their respective inconvenience, are of such a character as most decidedly to interfere with each other. Of the two objects proposed, almost every step that can be taken with a view to either, tends

\* See Appendix A.



in an equal or greater degree to defeat the other ; so as to render the combined result of the whole even a still more signal failure than each part of the scheme separate. A Colony stocked with worthless vagabonds, is in itself *bad, as a Colony* : a Penitentiary again, in a young settlement at the Antipodes, is, for many reasons, likely to be, *in itself, a bad Penitentiary* ; but each of them becomes incomparably worse, when they are combined ; because in the most important points, two not only different, but even opposite, systems of management will be dictated, by a regard for the promotion of this object or of that. And thus, besides the other evils inevitably consequent on the pursuit of incompatible advantages, we might also have anticipated (and experience shews with how much reason) the evil of a course of perpetual vacillation, and reiterated change of measures, under different governors, according as each may be inclined to look more to the welfare of the Colony, or to the efficiency of Transportation. Each accordingly has, to a certain extent, good grounds for censuring and reversing the measures of his predecessor, as at variance with a

part of what are, in truth, the *contradictory* orders given to all.

Of the justness of what I have been now saying, any man of candour and common sense may convince himself, not from my reasonings and reflections, or from his own, but from a reference to the very advocates of the system themselves. *By their own skewing* it aims at objects which are mutually inconsistent, and each of which can be promoted only at the expense of the other. I will extract, as one specimen out of several, the following passage from Archdeacon Broughton's Letter:—

“ There is one consideration which appears to  
“ me not to have attracted due attention, al-  
“ though by legislating without reference to  
“ it, we are exposed to all the inconsistencies  
“ which arise from acting without settled prin-  
“ ciples. It is most evident, that upon all  
“ propositions which may affect the condition  
“ of prisoners after their arrival in the colonies,  
“ the mother-country and the colonies have  
“ separate interests. The interest of the for-  
“ mer is, that transportation should operate as  
“ a punishment, principally that it may act as

“ a warning and a restraint. This is to render  
“ it ‘formidable,’ not desirable, in the eyes of  
“ the nation at large. To effect this, it is  
“ evidently the policy of the mother-country  
“ not only to provide that the prisoners, while  
“ under sentence, should be under a course of  
“ punishment ; but also, that after their sen-  
“ tence has expired, they should at least not  
“ find readier means of rising in credit, wealth,  
“ and station, than under any circumstances  
“ they could have aspired to, if they had re-  
“ mained at home. Every instance to this effect  
“ does prove that whatever suffering transpor-  
“ tation may cause, it affords to the individual  
“ an advantage which, but for transportation,  
“ he could not have enjoyed ; and it thus far  
“ undoes the designed effect of that punishment,  
“ and operates accordingly against the interest  
“ of the country which is seeking thereby to  
“ deter from and diminish crime. On the other  
“ hand, when we look at the interest of the  
“ community to which offenders are transported,  
“ we find that, for its advancement we ought  
“ to hold out to prisoners an encouragement  
“ exactly the reverse of that which the state

“ from which they are banished would approve.  
“ To call forth the resources of a new country  
“ like this, it is plain that every man should  
“ be encouraged to exert his utmost skill and  
“ industry; which he will never do but in the  
“ hope of acquiring property. And if a pri-  
“ soner is in a capacity to acquire property,  
“ he must from the force of circumstances be  
“ able, in proportion to his endowments of  
“ mind and body, to acquire it more easily  
“ than he could in England. In the recent  
“ act which incapacitates the holders of tickets-  
“ of-leave from acquiring or holding property,  
“ the legislature has acted very advisedly no  
“ doubt, in furtherance of English objects; but  
“ the operation of that act will be to take away  
“ a great stimulus to industry and enterprise,  
“ and thereby to retard colonial improvement.  
“ So again, if we look exclusively to the interest  
“ of the colonies, it is plain that the prisoner  
“ whose sentence has expired, should be en-  
“ couraged to apply his utmost energies to  
“ the acquisition of property, by the prospect  
“ of sharing those civil and political distinctions  
“ which, unless a prohibitory law intervene, it

“ is the natural effect of property to confer.  
“ But on the other hand, if the road to honour  
“ as well as wealth be laid open to those who  
“ have been prisoners, it is evident that such  
“ exaltation will appear very enviable in the  
“ eyes of those honest people at home, who  
“ find that they cannot rise to the like; and  
“ thus again, what is good for the colony will  
“ be detrimental to the parent state. Their  
“ interests in this respect must ever remain  
“ opposed; and therefore it is incumbent on  
“ those who legislate for both countries, to de-  
“ cide at once which of these interests shall be  
“ preferred, and in all their measures to act  
“ upon the principle of making the other give  
“ way.”\*

\* Dr. Ross (p. 58) concurs with Archdeacon Broughton in reprobating the recent alterations in the law by which it is attempted to render transportation efficient as a punishment :  
“ The second section of the act of parliament recently passed  
“ for abolishing the punishment of death for certain offences,  
“ and substituting transportation instead, by depriving pri-  
“ soners, if we understand it right, of all power to hold pro-  
“ perty of any kind, and thus removing the main spur to  
“ reform, has already paved the way to obtain this most  
“ wretched end. To connect the sentence in England in a  
“ more intimate way than has hitherto been done with the

I fully concur with what the Archdeacon has here said ; and have only to add the expression of my unfeigned wonder, that he should not have drawn the obvious conclusion from his own premises ; viz. that the only thing to be done is immediately to abandon a system which professes

“punishments to be undergone in Van Dieman’s land is both  
“proper and commendable, but it must be done with discretion,  
“not by legislating in the dark, and subverting, as if by accident, the whole machinery of prison discipline formerly established. If the section of the act alluded to had been framed  
“to prevent persons who had been convicted of obtaining money  
“by theft, forgery, fraud, swindling, or other false pretences,  
“from possessing or enjoying it when transported to this  
“colony, though that by the existing laws and regulations was  
“already prevented, it could at least have done no harm. But  
“when it goes on prospectively to deprive the convict of all  
“future incentive to honest industry, or good conduct, by  
“stripping him wholly of its fruits, the most superficial observer will discern how positively injurious it must be. Be  
“this, however, as it may, it points out the method by which  
“the home authorities can, if they see fit, carry the rigour of  
“punishment with regard to transported convicts to any length.”  
And again, (p. 61,) “What productive labour could prisoners  
“in such a situation perform, that would in any way meet the  
“expense of provision, clothing, superintendents and guards ?  
“Besides, the circuitous or indirect advantages which Britain  
“now derives in return for what the government expends on  
“the colony, would, by the removal and dispersion of the

to aim at the mutual benefit of the mother country and the colonies, on a plan which sets the two in direct opposition. Instead of this, however, he concludes his letter by expressing sanguine hopes founded on the adoption of measures just opposite to what he himself recommends!

“The course to be pursued therefore is to render transportation ‘something far beyond ordinary hard work; and to cut off the hope of those advantages which have been indis-

“settlers, be gradually sapped away. By the custom-house return for the quarter ending the 10th Oct. last, it appears that British manufactured goods were imported to Hobart Town from the ports of Great Britain alone, to the amount of 34,415*l.* sterling. If to this be added the imports at our other port of Launceston, with the amount of goods, the produce of other British colonies, on which duty is paid, we have an aggregate of imports for the whole year, of about 320,000*l.* Exports in colonial produce to the amount of about two-thirds of this value are sent to England. It would be needless for us to stop here, in order to point out to the intelligent reader the fiscal and commercial advantages which this reciprocal intercourse must confer, and which would be speedily swept away by the desperate and uncompromising species of prison discipline which we have imagined.” According to these gentlemen, the interests of the colony and of the mother country, are *antipodes* to each other.

“creetly suffered in some instances to result  
“from it : detracting from its proper terror,  
“and leading many to covet it as a boon, rather  
“than dread it as a punishment. When this is  
“done, transportation will operate as effectually  
“as any instrument of mere punishment can do,  
“in discouraging crime and reforming criminals.” ]

“*When this is done,*” which I expect will only  
be “*ad Græcas Calendas,*” the author will have the  
satisfaction of contemplating the beneficial effect  
of setting at defiance all his own principles.

The astonishment with which I first read  
the above extracts, became greater and greater  
every time I recurred to them. Is it then pos-  
sible,—I have several times asked myself—  
almost distrusting the evidence of my own  
senses,—that these passages should occur in a  
pamphlet sent me, professedly, for the purpose  
of “disabusing me of my errors” in respect of  
Transportation and of vindicating the system ?  
Or can it be that the whole is a piece of inge-  
nious irony, sent to me by way of sport, to try  
whether I can detect its true character, and  
written by persons who, in the assumed charac-  
ter of advocates, intend to hold up the system



to scorn and derision? I have several times been half-inclined to take this view of the matter; recollecting the ridicule which Bishop Warburton incurred by setting about seriously the work of refuting the "Vindication of Natural Society," by Burke, under the character of Bolingbroke. I have resolved however, at the hazard of being laughed at for credulity, to treat the pamphlets as serious compositions; though I could almost pardon such of my readers as may not have these publications before them, should they entertain a momentary doubt whether I can have made a faithful extract. Perhaps too, they may think it an affront to their understanding, that I should deem it necessary to proceed any further, in exposing the absurdity of a system which is thus condemned by its own advocates. But besides that to a great part of the public, these pamphlets (as I have already observed) are likely to be known only by vague hearsay, I should add, that, with the exception of that frank avowal which I have cited from page 99 of Archdeacon Broughton's Letter, both he and the other defenders of the system, generally keep out of sight the inconsistency I

have alluded to, and present to the reader separately and alternately the supposed advantage of "getting rid" (as it is called) of criminals, and that of encouraging a growing Colony ; so as to withdraw the attention from the real incompatibility of the two.

In other subjects as well as in this, I have observed that two distinct objects may, by being dexterously presented, again and again in quick succession, to the mind of a cursory reader, be so associated together *in his thoughts*, as to be conceived capable, when in fact they are not, of being *actually* combined in practice. The fallacious belief thus induced bears a striking resemblance to the optical illusion effected by that ingenious and philosophical toy called the Thaumotrope ; in which two objects painted on opposite sides of a card,—for instance a man, and a horse,—a bird, and a cage,—are by a quick rotatory motion, made to impress the eye in combination, so as to form one picture, of the man on the horse's back,—the bird in the cage, &c. As soon as the card is allowed to remain at rest, the figures, of course, appear as they really are, separate and on opposite sides. A

mental illusion closely analogous to this, is produced, when by a rapid and repeated transition from one subject to another alternately, the mind is deluded into an idea of the actual combination of things that are really incompatible. The chief part of the defence which various writers have advanced in favour of the system of penal Colonies consists, in truth, of a sort of intellectual Thaumotrope. The prosperity of the Colony and the repression of Crime, are, by a sort of rapid whirl, presented to the mind as combined in one picture. A very moderate degree of calm and fixed attention soon shews that the two objects are painted on opposite sides of the card.

In aid of this and the other modes of defence resorted to, a topic is introduced from time to time in various forms, which is equally calculated to meet all objections whatever on all subjects:—that no human system can be expected to be perfect;—that some partial inconvenience in one part or in another must be looked for; and that no plan can be so well devised as not to require vigilant and judicious superintendence, to keep it in effectual ope-

ration, and to guard against the abuses to which it is liable, &c. &c.

All this is very true, but does not in reality at all meet the present objections. Though we cannot build a house which shall never need repair, we may avoid such a misconstruction as shall cause it to fall down by its own weight. Though it be impossible to construct a time-piece, which shall need no winding up and which shall go with perfect exactitude, we may guard against the error of making the wheels necessarily obstruct each other's motions. And though a plan of penal legislation, which shall unite all conceivable advantages and be liable to no abuses, be unattainable, it is at least something gained if we do but keep clear of a system which by its very constitution shall have a *constant and radically inherent tendency to defeat our principal object*.

Now such is the case (as I have endeavoured to shew, in my former Letter, and in this) with,—what may be called our great Penitentiaries,—those on which we chiefly rely,—the Convict-settlements. The very system of a penal Colony contains in itself, considered as a mode

of *punishment*, a principle of self-destruction : because it not only aims (as I have already pointed out, and as one of its present advocates acknowledges) at *two objects essentially at variance* with each other, but also has a constant tendency, in practice, to sacrifice the more important of these two objects, to the incidental and subordinate one : I mean the efficiency of the *Penalty*, to the prosperity of the Colony.

That this is and must be the case, is a matter of complete moral demonstration. It is not only what we might have had every reason to expect, from the nature of the case alone, without having tried the experiment ; but it is also evinced by experience alone, independent of all calculations of probability ; and lastly, it is over and over again confirmed by the admissions of those who wish to defend the system.

I am the more anxious to press this consideration on the minds of my readers, because I cannot but think that any man of candour and sound judgment, who will but sufficiently attend to this one point, need hardly trouble himself to examine any of the other numberless

arguments against Transportation. Let every thing else that has been said on that question, in my former publication, or in the present, be supposed to be waived and to go for nothing ; and the single circumstance I am here adverting to, would, alone, be perfectly decisive.

For let any one but calmly reflect for a few moments on the position of a Governor of one of our penal Colonies, who has the problem proposed to him of accomplishing two distinct and in reality inconsistent objects ;—to legislate and govern in the best manner with a view to 1st. the *prosperity of the Colony*, and also 2dly. the *suitable punishment of the Convicts*. It is well known that *slave labour* is the least profitable ; and can seldom be made profitable at all, but by the most careful, difficult, troublesome, and odious superintendence. The most obvious way therefore of making the labour of the Convicts as advantageous as possible to the Colony, is to make them as unlike slaves as possible ; to place them under such regulations and with such masters, as to ensure their obtaining not only ample supplies both of necessaries and comforts, but in all respects favourable and even

indulgent treatment; in short to put them as much as possible in the *comfortable situation which free labourers enjoy*, where labour is so valuable, as from the abundance of land, and the scarcity of hands, it must be in a *new settlement*.

And the masters themselves may be expected, for the most part, to perceive that their own interest (which is the *only* consideration *they are expected* to attend to) lies in the same direction. They will derive most profit from their servants, by keeping them as much as possible in a cheerful and contented state, even at the expense of connivance at many vices, and of so much indulgence as it would not, in this country, be worth any master's while to grant, when he might turn away an indifferent servant and hire another. The master of the Convict-servants would indeed be glad, for his own profit, to exact from them the utmost reasonable amount of labour, and to maintain them in a style of frugality equal to, or even beyond that of a labourer in England: but he will be sure to find that the attempt to accomplish this, would defeat his own object; and he will be

satisfied to realize such profit as is within reach. He will find that a labourer who does much less work than would be requisite, here, to earn the scantiest subsistence, and who yet is incomparably better fed than the best English labourer, does yet (on account of the great value of labour) bring a considerable profit to his master; though to employ such a labourer on such terms, would, in England, be a loss instead of a profit. It answers to him therefore to acquiesce in any thing short of the most gross idleness and extravagance, for the sake of keeping his *slave* (for after all it is best to call things by their true names) in tolerably good humour, rather than resort to the troublesome expedient of coercion,\* which might be attended with risk to his person or property from an ill-disposed character, and at any rate would be

\* "To give some idea of the serious loss of time, as well as  
"of the great trouble caused by being far removed from a  
"magistrate alone, I need only state, that when a convict  
"servant misconducts himself, the settler must either send the  
"vagabond to the nearest magistrate, not improbably some  
"thirty or forty miles distant, or he must overlook the  
"offence."—*Excursions in New South Wales*, by Lieutenant  
*Breton*.



likely to make such a servant sulky, perverse, and wilfully neglectful.

It may easily be conceived therefore what indulgent treatment most of the Convicts are likely to receive, even from the more respectable class of settlers. As for the large proportion who are themselves very little different in character, tastes, and habits, from their Convict-servants, *they* may be expected usually to live (as the travellers who have described the Colony assure us they do) on terms of almost perfect equality with them, associating with them as boon-companions. But to say nothing of these, the more respectable settlers will be led, by a regard for their own interest, to what is called the humane treatment of their servants; that is, to endeavour to place all those in their employ who are *not much worse* than such as, in this country, few would think it worth while to employ at all, in a better situation than the most industrious labourers in England.

Now it is evident that the very reverse of this procedure is suitable for a *House of Correction*,—a *place of punishment*. And it is no less evident that a Governor must be led both by

his feelings,—by his regard for his own ease,—and by his wish for popularity with all descriptions of persons around him, as well as by his regard for the prosperity of the Colony, to sacrifice to *that* object, the primary and most important one, of making Transportation, properly, a penalty. We can seldom expect to find a Governor (much less a *succession* of Governors) willing, when the choice is proposed of two objects at variance with each other, to prefer the situation of Keeper of a House of Correction, to that of a Governor of a flourishing Colony. The utmost we can expect is to find now and then one, crippling the measures of his predecessors and of his successors, by such efforts to secure both objects as will be most likely to defeat both. But the individual settlers, to whom is entrusted the chief part of the detail of the system, are not (like the Governor) even called on by any requisition of duty, to pay any attention to the most important part of that system. They are not even required to think of any thing but their own interest. The punishment and the reformation of Convicts are only incidental results.

It is trusted that the settler's regard for his own interest will make him exact hard labour and good conduct from the servants assigned to him. But if indulgence is (as we have seen) likely to answer his purpose better than rigid discipline, he cannot even be upbraided with any breach of duty in resorting to it.

Of the many extraordinary features in this most marvellous specimen of legislation, it is one of the most paradoxical, that it entrusts a most important public service, in reference to the British nation, to men who are neither selected out of this nation on account of any supposed fitness to discharge it, nor even taught to consider that they have any public duty to perform. Even in the most negligently-governed communities, the keeper of a house of correction is always, professedly at least, selected with some view to his integrity, discretion, firmness, and other qualifications; and however ill the selection may be conducted, he is at least taught to consider himself entrusted, for the public benefit, with an office which it is his duty to discharge on public grounds.

However imperfectly all this may be accom-

plished, few persons would deny that it is, and ought to be, at least, aimed at. But this is not the case in the land of *ornithorhynchus paradoxus* and of other paradoxes. There each settler is, as far as his own household is concerned, the keeper of a *house of correction*. To him, so far, is entrusted the punishment and the reformation of criminals. But he is not even called upon to look to these objects, except as they may incidentally further his own interest. He is neither expected nor exhorted to regulate his treatment of convicts with a view to the diminution of crime in the British Isles, but to the profits of his farm in Australia.

It is true, the settler may sometimes be, like other men, actuated by other feelings besides a regard to profit: but these feelings are not likely to be those of public spirit. When the convict does suffer hard usage, it is not much to be expected that this will be inflicted with a view to strike terror into offenders in Great Britain, or to effect any other salutary end of punishment. His treatment is likely to depend not so much on the character of the crime for which he was condemned, as on the character of his

master. Accordingly Colonel Arthur, (p. 3,) in enlarging on the miseries to which a convict is subjected, makes prominent mention of this, that “ he is conveyed to a distant country, in the “ condition of a *slave*, and assigned to an unknown master, *whose disposition, temper, and even caprice*, he must consult at every turn, “ and submit to every moment.”

It is observed by Homer, in the person of one of his characters in the *Odyssey*, that “ a man “ loses half his virtue the day that he becomes “ a slave :” he might have added with truth, that he is likely to lose more than half when he becomes a *slave master*. And if the convict-servants and their masters have any virtue to lose, no system could have been devised more effectual for divesting them of it. Even the regular official gaolers, and governors of penitentiaries, are in danger of becoming brutalized, unless originally men of firm good principle. And great wisdom in the contrivance of a penitentiary-system, and care in the conduct of it, are requisite to prevent the hardening and debasing of the prisoners. But when both the superintendant and the convicts feel that they

are held in bondage, and kept to work by him, not from any views of *public duty*, but avowedly for his *individual advantage*,\* nothing can be imagined more demoralizing to both parties.

Among all the extravagancies that are recorded of capricious and half insane despots in times of ancient barbarism, I do not remember any instance mentioned, of any one of these having thought of so mischievously absurd a project as that of forming a new nation, consisting of Criminals and Executioners.

But had such a tyrant existed, as should not only have devised such a plan, but should have

\* Colonel Arthur (p. 23.) falls into an inaccuracy of language which tends to keep out of sight a most important practical distinction. He says: "With regard to the fact that convicts "are treated as *slaves*, any difficulty that can be raised upon "it must hold good whenever penitentiary or prison discipline is inflicted." If by a "slave" be meant *any one who is subjected to the control of another*, this is true. But the word is not in general thus applied. It is not usual to speak of children as *slaves* to their schoolmasters, or to their parents; or of prisoners being slaves of the gaoler; or soldiers, of their officers. By slaves we generally understand persons whom their master compels to work *for his own benefit*. And in this sense Colonel A. himself (p. 2.) applies the term (I think very properly) to the assigned convict-servants.

insisted on his subjects believing, that a good moral effect would result, from the intimate association together, in idleness, of several hundreds of reprobates, of various degrees of guilt, during a voyage of four or five months, and their subsequent assignment as slaves to various masters, under such a system as that just alluded to, it would have been doubted whether the mischievous insanity of wanton despotism could go a step beyond this. Another step however there is; and this is, the pretence of thus benefiting and civilizing the Aborigines! Surely those who expect the men of our hemisphere to believe all this, must suppose us to entertain the ancient notion of the vulgar, that the *Antipodes* are people among whom every thing is *reversed*. The mode of civilization practised, is of a piece with the rest.

“ They have been *wantonly* butchered; and  
“ some of the Christian (?) whites consider it a  
“ pastime to go out and shoot them. I ques-  
“ tioned a person from Port Stephens concern-  
“ ing the disputes with the aborigines of that  
“ part of the colony, and asked him, if he, or  
“ any of his companions, had ever come into

“ collision with them, as I had heard there prevailed much enmity between the latter and the people belonging to the establishment? His answer was, ‘ Oh we used to shoot them like fun!’ It would have been a satisfaction to have seen such a heartless ruffian in an archery ground, with about a score of expert archers at a fair distance from him, if only to witness how well he would personify the representations of St. Sebastian. This man was a shrewd mechanic, and had been some years at Port Stephens: if such people consider the life of a black of so little value, how is it to be wondered at, if the convicts entertain the same opinion? It is to be hoped that the practice of shooting them is at an end, but they are still subjected to annoyance from the stock-keepers, who take their women, and do them various injuries besides.”—*Breton*, p.200.

But to waive for the present all discussion of the moral effects on the settlers, likely to result from the system, let it be supposed that the labour of convicts may be so employed as to advance the prosperity of the Colony, and let it only be remembered that this object is likely to



be pursued both by governors and settlers, at the expense of the other far more important one, which is inconsistent with it, the welfare of the mother country, in respect to the repression of crime. This one consideration, apart from all others, would alone be decisive against transportation as a mode of *punishment*; since even if the system *could* be made efficient for that object, *supposing it to be well administered with a view to that*, there is a moral certainty that it never *will* be so administered.

If there be, as some have suggested, a certain description of offenders, to whom sentence of perpetual exile from their native country is especially formidable, this object might easily be attained, by erecting a penitentiary on some one of the many small, nearly unproductive, and unoccupied islands in the British seas; the conveyance to which would not occupy so many hours, as that to Australia does weeks.

But as for the attempt to combine salutary punishment with successful colonization, it only leads, in practice, to the failure of both objects, and, in the mind, it can only be effected by keeping up a fallacious confusion of ideas.

It is not, however, merely in respect of these two points, the interest of the Colony and that of the Mother Country, that this *thaumotropic* blending of distinct pictures is needed and is resorted to, in order to withdraw the attention from the incompatibility of the several objects proposed. The penal portion of the system, considered alone, proposes to combine irreconcilable advantages, each of which is, by *turns*, represented as aimed at, and as attained. Each objection, as soon as brought forward, is eagerly met by such statements and representations as the case may seem to call for, supported as strongly as bold and vehement assertions can support any thing; and then the advocates seem to calculate on the reader's not only being perfectly satisfied with what is said, but immediately afterwards forgetting the whole of it; so as to be prepared to receive from the same pen representations the most opposite to the foregoing, calculated to meet some different objection.

At one time we find the situation of the convict painted in the most favourable colours, as one of considerable present comfort, and full of

cheering confidence of speedy and complete restoration (on the supposition of tolerably good conduct) to a respectable place in society, with such advantages, in respect of worldly prosperity, as the individual could not elsewhere have hoped. This is to shew the utility of the system as a mode of *reformation*. Then, to shew its utility as a mode of *detering* from crime by terror, the picture is reversed, and the same convict is represented as undergoing the most galling and degrading slavery—as suffering the most unmitigated misery, and branded with the most indelible disgrace.\* This latter repre-

\* “ I think you will be constrained to admit *that* a punishment by which the offender is stripped of all his property—  
“ deprived of his liberty—shut out from intercourse with his  
“ family, totally separated from them,—denied every comfort,  
“ according to the idea entertained of that word by the lowest  
“ class—placed on board a transport—subjected there to the  
“ most summary discipline — exposed to ill usage from  
“ criminals still worse than himself—conveyed to a distant  
“ country in the condition of a slave—then assigned to an  
“ unknown master, whose disposition, temper, and even  
“ caprice he must consult at every turn and submit to every  
“ moment, or incur the risk of being charged with insubordination, which if proved before the magistrate, will be followed  
“ by corporal punishment, or removal to the service of the

sentation, conveyed in the strongest and most pathetic language, I found in a Hobart-Town newspaper, which was lately transmitted to me.

“Crown, where his lot will be still more severe according to the degree and nature of his offences. He has indeed, by the regulations of the government, sufficient food and clothing, but the dread of his master’s frown is to him, what the drawn sword was, over the head of Dionysius’s courtier!”—*Arthur’s Secondary Punishments*, p. 3.

Dr. Ross (p. 56.) adverts, apparently (for I do not very clearly understand him) to some supposed objections to the system such as I should never have suspected any one of urging, and then proceeds to describe the *vindictive severity* of the punishment. “Is it objected then to the system of Transportation that it produces in nineteen cases out of twenty the reform of the convict?—that it opens the door for the recovery of character?—that it converts a body of men into useful and industrious members of the community, honestly obtaining their own support, and contributing their share to the general stock, whose crimes and propensities were otherwise a disgrace to their nature and a burden to the state? Are we not to urge them to reform, because reform benefits their condition, and therefore Transportation will have no terrors to the ill-disposed in England? Forbid it reason—forbid it state policy—forbid it common sense—forbid it humanity! Virtue when embraced will benefit the condition of any man—much more that of the wretched convict whose misery is engendered and aggravated by vice. And yet we see punishment exists even upon the reclaimed convict. The weight of condemnation never till

The editor, however, had incautiously admitted into the *same* newspaper an extract from an English one, containing (what is not unfrequently met with) an account of some persons who had committed offences purposely for the sake of being transported, because they understood that they were likely to be better off in New South Wales than they could hope to be in England.\* I would by no means be understood to say that this amounts to a *contradiction* of the preceding statement. It is certainly *conceivable* (and such is Col. Arthur's distinct and

“ the hour of his death leaves the unhappy man. When  
“ the judge passes the sentence of Transportation he opens  
“ an ulcer in the heart that neither time nor penitence itself  
“ can wholly heal. Nay, the unfortunate being who has been  
“ innocently convicted (and we have reason to believe there  
“ are many such) still bears the shame upon his head,  
“ though a free pardon should reach him. The royal clemency may mitigate or wholly emancipate the bondage of  
“ the body, but the liberation of the mind that is once  
“ enthralled by crime and its consequences, is beyond the  
“ reach of mortal means to accomplish. In a word, we candidly assure those in England who are ignorant of the real  
“ condition of the convict in these colonies, that his punishment is as complete as the most severe or even the vindictive  
“ and unfeeling could desire.”

\* See Appendix, No. II.



repeated declaration) that in England comfort and enjoyment are *anticipated*, and in New South Wales real *misery is endured*. If such be indeed the case, our system of punishment is, so far, the very consummation of absurdity, as well as inhumanity. The ground on which, principally, if not exclusively, the infliction of pain is resorted to, or can be justified, being the prevention of crimes, through the terror of punishment, our system, *if its advocates are to be believed*, inflicts pain which is even worse than gratuitous; by subjecting convicts to a treatment which, though it is real suffering to *them*, yet is so much misapprehended at home, as to invite, instead of deterring, those who are at all disposed to follow the same courses. Nay more, the greater the misery actually endured in the colony, the *more* alluring, it seems, is the picture held out in England. If such be the humane system of punishment which these gentlemen so earnestly recommend, surely the less we have of such humanity the better. I subjoin some extracts, lest it should be thought absolutely incredible that such statements should have been made by any *advocate* of Transportation.

“ Convicts, there can be no doubt, occasionally send home flattering accounts of their situation ; but, in almost every instance within the last seven years, these have been *prompted more by the misery* of the writers, than from any undue alleviation of punishment, or other circumstance affecting them favourably.”

And again :—

“ Many [favourable accounts] have been transmitted by convicts in a very miserable condition, with a view to induce their families to join them, in the hope that having decoyed them into a state of much wretchedness, they might thus excite the compassion of the government, and, as they selfishly expected, be assigned to their wives. Some very remarkable instances of this description have lately come under my notice.”

And yet according to this very same author, the *remoteness* from the mother country of these penal settlements, of which such fallacious and favourable accounts are sent home, — this very remoteness is “ a great advantage,” and tends to increase the terrors of transportation. I should have thought the nearer home the place of

punishment was situated, the more difficult it would be to gain credit for these false accounts, and the easier to disprove them.

“ With regard also to the distance of Van  
“ Dieman’s land from England, which you suppose renders transportation to it an ineffectual  
“ punishment, I regret that I am obliged to  
“ differ with your Grace, and to assert that it  
“ is, on the contrary, a very great advantage.  
“ Familiarity is the parent of contempt, and if  
“ secondary punishments be inflicted *within view*  
“ of the community, that part of the population,  
“ on account of which such examples are alone  
“ necessary, will soon learn to disregard them,  
“ however severe they may be. But if, as is  
“ complained by every one, severity is not attributable to them ; and if in many instances  
“ convicts would be better off in the penitentiaries than in their own homes, and if many  
“ persons would in consequence be glad to  
“ change place with criminals undergoing their  
“ sentences, the more secondary punishments  
“ are withdrawn from the public gaze, and the  
“ less intimate the knowledge of them possessed



“ by the community, the greater will be the  
“ chance of a beneficial result.”

I must confess I am myself not disposed to give full credence to these assurances of the miseries endured by the convicts, and of the falsity of their own accounts of their condition. If however Col. Arthur's representation is to be fully relied on, it is hard to imagine any more decisive condemnation of the whole system. If Capt. B. Hall, or any other traveller disposed to take an unfavourable view of the *American* penitentiaries, could have reported of *them* that the prisoners *suffered such extreme misery as induced them to* transmit to their friends (like the fox in the fable) flattering pictures of their comfort and happiness, so as to induce others to *endeavour to partake of the same lot*, this would have been, I imagine, triumphantly brought forward as a proof that the system was altogether a failure.

One portion of the misery inflicted on a Convict (according to Col. Arthur's description in

a passage I have already extracted) is his being, on board a transport, "exposed to ill-usage "from criminals still worse than himself." If a native of *this* island had ventured to give such a description, he would probably have been asked, whether he intended it to apply to *every* convict; and if so, how it could happen that *each one* of them should meet with "criminals "*worse than himself.*"

But though (even when writing in *Ireland*) I did not go such a length as to suppose that *every* convict could find a *worse*, yet I was fully aware that some of them are better than the generality; and that these would suffer severely and in more ways than one, by their intermixture with "criminals worse than themselves." If Col. Arthur will look to my first Letter to your Lordship, (pp. 15, 16,) he will find that I have by no means overlooked this circumstance, though the inferences I have been led to draw from it are, on the whole, far from being favourable to the system.

Not however that I would reckon this particular portion of suffering, among those that have *no* tendency, in any case, towards the

great object, of *prevention*. On the contrary, I have no doubt that there are persons, not altogether proof against temptation, but of tolerably decent habits, who may be occasionally deterred from crime, by a dread of the disgrace, disgust, and discomfort of being for four or five months in a transport with the most abandoned society. And persons of such a description, who do endure this, suffer no doubt very great misery ; so great that some might be disposed to say, it would be, every way, a mercy to hang them instead. The *moral* death which in all probability must result, is a heavier punishment than physical. And (which is a strong objection to such a kind of punishment) the *mischief* done far exceeds the *pain* suffered. The crimes therefore which are in this way prevented (as I have no doubt some few crimes are) will have been prevented at an enormous cost. For it is *implied in the very character of the penalty* denounced, that the *majority* of the convicts who crowd the transports shall be abandoned ruffians; and that the miseries of this society shall be such as each will feel the *less* in proportion as his own character is the more depraved, and

consequently the more needing the restraint of fear to deter him from crime.

One might indeed almost imagine that a kind of perverse ingenuity had been exercised to devise a system of (so called) penal law, which should combine almost every possible disadvantage. Nothing certainly could have been more skilfully contrived to prevent a penalty, in most instances, from either deterring from crime, through the dread of disgrace, or again, reforming offenders through the influence of good example. Suppose on the one hand, that a criminal were placed in some situation in which he should be constantly surrounded by such as naturally regard him with scorn and abhorrence; there would then be this disadvantage indeed, in regard to the *individual*, that he would be likely to become permanently hardened, from having been so openly disgraced as to have irretrievably lost his character; but then, the dread of such disgrace would operate favourably in regard to the *prevention* of crime. If again, instead of this, he were placed in the society of respectable persons who did *not* know of his delinquency, then, there would indeed

be this disadvantage, that the absence of disgrace, and the comfort of sympathy and of social intercourse on equal terms, would tend to render such a situation no very formidable punishment: but the reformation of the individual, who would thus have an opportunity of establishing and maintaining a good character among his new associates, might be hoped from this plan, if from any. The one in short of these methods, tends to prevention without reformation; the other to reformation without prevention.

Now if the problem were proposed, how to combine in the greatest degree, the disadvantages, and exclude the advantages, of *both* these plans, the solution I think would be found in our system of Transportation.

The convict is shielded as much as possible from the chance of reformation, by unrestricted intercourse with multitudes who are setting him in every possible way, the worst possible examples: who do know his delinquency, but whose sympathy he must earn,—nay, whose ridicule he must escape — by a display of expert roguery and of hardened profligacy; and again,



the terror of disgrace is as much as possible done away, by the offender's removal from the presence of any reputable persons for whom he may feel respect, and placed in a society in which there are abundantly enough to keep him in countenance; in which not only vice, but convicted criminality, is the rule, and innocence the exception.

No way could I think have been devised more effectual for diverting the penalty, both in *prospect* of the terror of disgrace, and, in *infliction*, of all tendency towards reformation. When Shakspeare made the soldier (in "All's Well that Ends Well,") say to Parolles, "If you " could find a Country where but women were " that had received so much shame, you might " *begin an impudent nation*," he little thought probably that in the nineteenth century the experiment would be actually going on. The impudent nation has been begun some time, and there are abundantly enough in it of "women who have received so much shame" as to stamp and perpetuate its character: though, for fear it should not increase fast enough, we send out occasionally a few ship-

loads of young girls not yet corrupted, to supply the deficiency, and to become mothers to the offspring of thieves! By Lieutenant Breton's account, who (like almost all the authorities I have appealed to) is one of those rather disposed to favour the present system, this *last-mentioned* object seems to be the only benefit, such as it is, likely to be attained by our recent exportations :—

“ Good servants, (says he,) especially those of  
“ the gentler sex, are in great request ; those  
“ free women sent out not long since by the  
“ government, have proved no great acquisition,  
“ except by increasing the population. This  
“ is, perhaps, a bold assertion ; but my infor-  
“ mation proceeds from highly reputable sources.

“ Of the children who were also sent out,  
“ some have conducted themselves well, but  
“ most of them indifferently.

“ It is really inconceivable how difficult it  
“ is to procure steady servants, or work people ;  
“ as they all seem to be of opinion that the  
“ great charm of life consists in getting drunk  
“ as often as possible ; and unfortunately spirits  
“ are so cheap that they can constantly indulge

“ themselves in their inclination. There are  
“ servants, who, though in every other respect  
“ most commendable in their conduct, were yet  
“ entirely untrustworthy through this abomin-  
“ able propensity. Such too is the case with  
“ a large proportion of the mechanics, men who  
“ have it in their power to lay by considerable  
“ sums from the profits of their labours, and to  
“ make no contemptible provision for their  
“ families ; but who prefer instead, to waste  
“ their substance in inebriation at the public  
“ houses : they seem determined to take no  
“ heed of the morrow, eating and drinking as  
“ much as possible on the one day, for fear, I  
“ presume, of dying on the following !”

It is perhaps fortunate, if we will but use the lesson before us, that the errors of the present system are so very gross and palpable as they are :—that the rocks on which we have hitherto struck, are above water. We have hence some reason for hoping that we may obtain some different results from steering a different course hereafter. And we have also, to a certain degree, a direction pointed out for that course. A chart of shoals and quicksands is not without



its use in navigation ; and the plan we have hitherto been pursuing, may, by the rule of contraries, be made to furnish a profitable example. For there is scarcely a feature in the whole system, — scarcely a part, portion, or circumstance, in the convict's life, which it would not be requisite entirely to reverse, in a well-regulated penitentiary.

And in no particular does this hold good more strongly than (as I formerly observed) in all that relates to the intercourse of convicts with each other ; which, if left unrestricted during their hours of relaxation, cannot fail to lead to a variety of ill consequences.\*

Under the present system these “ hours of relaxation ” comprehend, in the first instance, the four or five months of the voyage ; in which multitudes are crowded together without employment. Col. Arthur indeed seems to suppose that I attribute some specific effect to the influence of the *sea*. He observes (in p. 21.) “ Why, it may be inquired, should association “ in a *ship* be more injurious than association on

\* See Appendix, No. III.

“*shore?*” Now as I never gave the least hint that I supposed this to be the case, I am not at all ashamed to confess that I know no reason why it should be so. But I will take leave to ask a converse question, which I apprehend is rather more to the purpose; Why should association in a ship be *less* injurious than on shore? No one in his senses, I conceive, would doubt that the association of several hundreds of depraved characters, but of various kinds and degrees of depravity, closely crowded together in a small space, in a building on *shore*, without any employment whatever, for four or five months, but to talk over together their past feats of villany, must be the most corrupting process, to all of them who were not past corruption, that could possibly be devised. It is therefore for the advocates of the present system to shew why the evil should be *less* on board a ship; not for me to prove it greater. I adverted to the evil tendency of the *voyage*, merely because this involves the necessity of encountering this evil, which is what no one I suppose would be so insane as to propose introducing gratuitously.

But this, it seems, is a case in which we are to trust neither reason nor testimony. The statements to which I have referred for the existence of a state of things, such as might have been fully expected from the nature of the case, even independent of any testimony at all, are, we are told, unworthy of credit. Mr. Cunningham's work in particular, from which copious extracts are given (though far short of what I might have extracted to the same purpose), in the Appendix to my former Letter, is characterised (pp. 22, 23,) in terms which sound indeed exceedingly mild, but which involve a charge of the most wanton, deliberate, and mischievous calumny.

“ Not having had an opportunity of witnessing the condition and conduct of convicts previous to their embarkation for this colony, I am of course unable to institute any comparison betwixt their state before their voyage and after its conclusion, but I have always been strongly impressed with the conviction that very considerable improvements generally take place. The Surgeons Superintendent are usually intelligent and experienced officers,

“ who observe the men under their charge  
“ assiduously, keeping them under the strictest  
“ surveillance ; and Mr. Cunningham’s obser-  
“ vations which your Grace has honoured with  
“ your notice, appear to have been dictated by  
“ a desire rather to produce effect and enliven  
“ his work, than to convey correct information.  
“ His inclination to listen to and relate the  
“ marvellous stories to which he refers, and  
“ his fear lest by coercion he should make  
“ the convicts ‘ hypocrites,’ and his opinion that  
“ it was better to allow them to remain ‘ open  
“ downright rogues,’ seem to indicate that the  
“ discipline which he exercised was not cal-  
“ culated to produce the very best results, and  
“ that the men under his charge were not likely  
“ to afford an average example of convicts  
“ when under more serious and more prudent  
“ management.”

So Mr. Cunningham, it seems, wrote falsehoods for the sake of *producing an effect* ! Most people I conceive write whatever they do write, with a view to some *effect*. But let us be permitted to inquire in the present instance, *what* effect ? To raise a prejudice against

the system of Transportation for which he is a decided advocate ? Or was it to gratify and entertain his readers ? He must have calculated on readers of a strangely depraved taste, who could take so little interest in being told of the success of measures designed for the most important and best purposes, and of “very considerable improvements” taking place in a class of men most needing improvement, that it was necessary to fabricate, for the amusement of the public, details of the most abandoned and revolting villany.

I have used the word “fabricate,” because in the present case the plea of mere *exaggeration* is of no avail. Let it be supposed that Mr. Cunningham’s representation is exaggerated ;—though every conceivable motive would have led him, if not perfectly correct and impartial, to extenuate rather than exaggerate, the evils of the system he advocates :—but let it be supposed, in defiance of all probability, and on the strength of Col. Arthur’s unsupported accusation, that the picture is overcharged : and then let any one read, both what is extracted in my former Letter from the work in question and from



others, and also, the other portions of these works that are there referred to; and let him ask himself whether my conclusions are not fully borne out, if even the half of these statements be credited.

There may be found persons indeed (though not so many I conceive now, as a few years back) who suspect that in all points the unfavourable representations of the penalty of Transportation have been overcharged;—that its effect in deterring offenders has been extenuated, and the temptations it holds out, and the corruption it produces, exaggerated. To such persons it might indeed fairly be replied, that I have every reason to believe I have *not* misrepresented its advantages and disadvantages; having not only made careful inquiries, but abstained from giving as shocking a picture of the operation of the present system as I believe might be given consistently with truth; choosing to confine myself chiefly to the testimony of those who not only have had the best opportunities of observation, but also are avowedly favourable to that system. This, I say, might fairly be urged in reply to the objection; but I

am content to waive that plea. The case is so strong that it can well afford it. We need not join issue on the question, whether the picture presented be minutely accurate or not. Let any one be left to allow for all the exaggeration that can be thought conceivable, and to suppose the evils of the system to be considerably less than they are represented, and the advantages greater. The conclusion, I think, would still be, to any candid and considerate mind, the very same. There are extreme cases, and this I think is one of them, in which no allowance that can reasonably be made for want of strict accuracy, will perceptibly affect the result. It would not be the "easier for a camel to go through the eye of a needle" if the camel were half the usual size, and the needle's eye double. And in this case the evils which I have pointed out (though I have passed over no small part) are so multifarious and monstrous, and the advantages so extremely minute, that if the one were only half what they are and the other double, I could not hesitate about coming to the same conclusion.

Indeed I have sometimes been disposed to

doubt whether the number and variety of the arguments on this question which are comprised in the former Letter and in this, may not prevent their being by some minds, duly appreciated. For there are persons who when an accumulation of reasons is presented to them, are apt to take for granted that *all*, or nearly all of them together, are necessary to establish the conclusion ; and consequently if one or two of these shall have been apparently refuted, they regard this as a sufficient answer : though perhaps (as in the present case) there may be several other reasons, each of which would, alone, establish the conclusion. — Sometimes also even the very *weight* of the reasons urged, will, with some minds, diminish their effect. If a system, for instance, which has been adopted and persevered in (as that of Transportation) shall be proved not merely to be objectionable, but to involve the most extravagant absurdity, many are apt to infer that there must be some (they know not what) strong recommendations to counterbalance these ; or some lurking fallacy, though they cannot perceive any, in the arguments against the system, since a mere tissue



of palpable errors could never, they think, have obtained any countenance : forgetting that the errors *become* palpable, only when clearly pointed out ; and that there is no absurdity so gross which even intelligent men have not readily acquiesced in, when their attention has not been directed to the question.

But so sensible are the defenders of the system of the overwhelming mass of evidence against them, that they feel it necessary, instead of descending to particulars, and attempting disproof, boldly to deny the whole, by sweeping, unsupported assertions. The sixth, out of no less than eleven statements drawn up in formidable array (in pp. 3, 4, 5, of Col. Arthur's Letter) is that "the atrocities to which you have referred do not exist." For a *proof* of this and of several other no less bold assertions, I have turned over every page, again and again, in vain. And this being the case, I should perhaps have thought it unnecessary to notice it, could I have been sure that no one would glance at that page on opening the pamphlet, or perhaps meet with it along with some other such extracts in a newspaper, and then inquire no further, but take

for granted that the evidence for so bold a statement at the opening of the work, must be supplied in the subsequent pages.

Had I given an *ideal* picture of atrocities such as I conceived likely to exist, without any evidence beyond antecedent conjecture, a simple denial might have been admitted as an answer. But besides Mr. Cunningham's testimony (and that of several others) I adduced that of Mr. Rutherford, who had sailed *seven* times in convict-ships in the same capacity as the former,—that of Superintendant Surgeon. “These are” (says Col. A. himself,) “usually intelligent experienced officers, who observe the men under “their charge assiduously,” &c.—P. 22. Was it wonderful then that I should give some credit to the statements of such men, when every probability was in favour of its correctness? I will take leave to add, that I still give credit to their evidence, because it was *uncontradicted till there was a particular purpose to be served* by the denial.

It is about four years since the article appeared, in the London Review, on the *second* edition of Mr. Cunningham's book. Other

evidence to the same effect had been still longer before the public. Why then did no one, long ago, step forth to denounce these witnesses as pernicious slanderers ; which they must be, if their statements are untrue ? Why did those who had the best opportunities of knowing the truth, suffer such malicious misrepresentations to circulate, all that time, uncontradicted ? The answer is obvious : Because the *inferences* from these had not from the first been insisted on, and pressed on the public attention. As soon as the *conclusions* are drawn, *then* it is that it is found out, for the first time, that the premises are false. The evidence, it seems, might have remained for ever uncontradicted had not I and others pointed out the obvious deductions from it.

And, why again, is there, even now, no *disproof* offered of this evidence ?—no attempt to impugn it except by bare unsupported denial ? The obvious answer is, Because it is *true* ; too true to be disproved ; and yet too conclusive to be admitted.

Some of these denials do in themselves sound rather strangely :—“ That little additional con-

“tamination is contracted by any at that time is  
“almost proved by the circumstance that the farm  
“labourers sometimes sent out for rioting and ma-  
“chine breaking retain for the most part on their  
“arrival their original simplicity, and a dispo-  
“sition to conduct themselves honestly.”—P. 22.  
That the “original simplicity” which consists in  
a disposition to riot and outrage, is retained, I  
have little doubt : of the general *honesty* of the  
convict-servants Capt. Breton and others give  
a different and I should fear a more correct  
account.

My exposure however of the demoralizing  
effects of our present system, both on the Co-  
lony and on the Mother Country, Archdeacon  
Broughton meets (p. 85.) by an answer which  
greatly surprised me :—an insinuation that I  
deprecate or overlook the moral effect of reli-  
gious principle, in diminishing crime ; and that I  
am proposing a system of punishments to super-  
sede the fear of God ! At least if such be not  
his meaning (though the general courteous and  
candid tone of his Letter is greatly at variance

with it) I cannot conceive what it is he does mean.

After premising (p. 84.) his view of “the substance of my argument, that crimes have increased *because* Transportation has lost its terrors” (which by the way is totally unlike any thing I ever did say; for I have never implied that it ever *had* any terrors to lose) he proceeds:—  
“At the risk of being thought to make the observation out of place, I will, nevertheless, state my opinion, that the very prevalent decay of faith in the truths of religion, and a proportionate abatement of its influence, are the chief causes of that rapid increase of crime which we witness and deplore.

“I do not introduce this as a mere customary common-place remark, which it might be unbecoming my situation to omit: but because I sincerely feel the subject in this point of view has not been duly pressed upon the attention of those whose office it is to consult for the public security; and that the theory of the Archbishop of Dublin has a tendency to sanction and confirm the prevailing error. His Grace appears to maintain,

“ that all our distress arises from our having  
“ chosen the wrong preventive ; but that, by  
“ trying various experiments in secondary pun-  
“ ishments, ‘ there can be little doubt that in  
“ the course of a very few years we should be  
“ enabled, by attentive observation, to ascertain  
“ what system worked best :’ assuming that there  
“ is a system of mere legal coercion discoverable,  
“ which may greatly abate if not wholly eradi-  
“ cate the disease. Now, whatever may be the  
“ deserved character of transportation, and ad-  
“ mitting it for argument’s sake to be as excep-  
“ tionable as it is represented, I have the  
“ strongest conviction on my mind that no  
“ substitution of another mode of punishment  
“ will operate perceptibly in lessening the amount  
“ of crime ; but that the same result will con-  
“ tinue if that substitution be the *only* change.  
“ In common with the Archbishop of Dublin,  
“ I have been in charge of parishes in Eng-  
“ land, and my experience has taught me that  
“ the relaxation of morality prevailing there  
“ has arisen, not from the inefficiency of any  
“ particular mode of punishment, but from a  
“ diminished prevalence of the fear of God.

“ So long as that fear governed the general  
“ mind of the nation, the dread of legal inflictions,  
“ coming in as a secondary restraint in aid of that which was more prevalent and  
“ formidable, was quite sufficient to curb violence and dishonesty, and to enforce a tolerable regard for life and property. But so  
“ soon as the barriers of the law are exposed, as is the case at present, to the whole rush  
“ and pressure of men’s unruly appetites, those barriers will inevitably bend and give way;  
“ and the wave, if excluded at one point, will come pouring through with greater impetuosity at another. I candidly confess, that the  
“ absence of all regard or reference to this cause of the prevalence of crime, appears to me the  
“ leading defect of Archbishop Whately’s publication. It is an omission which could not  
“ have been looked for in the work of a divine; and unless it be taken into consideration,  
“ he will greatly mislead those who follow him as a jurist and a politician.”—P. 85—87.

This most extraordinary passage contains some positions and insinuations which to say the least are extremely rash. To the British

Public, and I may add, the American, (though probably not the Australian) I have been for about twelve years, not unknown as a writer ; chiefly on religious subjects ; and those treated practically and popularly. I have been occupied chiefly, not in abstruse dissertations on points interesting only to deep theologians, but on the *application* of religion to *moral* conduct. And especially I have laboured to counteract the bad impression that such weak and absurd views of religion as are often to be met with, may make on the minds of ordinary readers ; not only of those who reject but of those also who admit such views. For I have long been convinced that nothing tends so much to bring Christianity into contempt, as the representations which some of its professors give both of its doctrines and of its application. Sceptics are apt to forget, that where the *generality* of men are Christians, it must be expected that a considerable portion of Christians (and not a few even of Christian *writers*) should be weak men ; whose religious views will naturally partake of their own confusion of thought. To judge therefore of the character of the Religion itself, from the repre-



sentations given of it, by such feeble advocates, is no less unreasonable than to estimate the brightness of the sun by viewing it through a smoked glass.

Although, however, I could hardly expect to be much known as an author, in a colony so distant, (and, I may add, so constituted,) it ought to have been supposed, in charity, that I should not have omitted any religious topic that might appear relevant to the question I was treating of. But what would be thought of a physician, who, in treating of some disease,—suppose cholera,—and defending the practice of a particular hospital against objections, should reply, — “ At the risk of being thought to make the observation out of place, I will nevertheless state my opinion, that a very prevalent *decay of health*, and the proportionate abatement of the *influence of the vital principle*, are the chief causes of that rapid increase of disease which we witness and deplore ? ” He would be answered (if at all) by saying, that his observation was indeed quite “ out of place : ” the question being, by what *mode of treatment* we were to increase or restore the influence

of the vital principle,—prevent or remedy the decay of health,—and stop the progress of infection.

If I had introduced some observations analogous to the above, either “as a mere customary common-place remark, which it might be unbecoming my situation to omit,” or as solemnly announcing the discovery, that the relaxation of morality arises from a diminution of the fear of God, I might have been answered, “How are we the wiser for your telling us of the disease, without suggesting a remedy? That men who fear God as they ought will not commit crimes, we knew before; but are you proposing an act of parliament to compel men to fear God? Or have you any plan for so promoting religious faith as to do away all need for punishment? Or do you hold that all kinds of punishment are equally efficacious, or equally inefficacious, in promoting or in discouraging such conduct as religion forbids? If all punishments are useless, let all be abolished: if all are equally proper, let things remain as they are: or if it is possible the system may be improved, let inquiries and suggestions be made with a view to improvement: but do

not pretend to have set at rest a practical question of legislation, by solemnly pronouncing a truism on which you do not yourself propose to found any legislative measure."

Your Lordship may remember that I began my former Letter by complaining, *in the capacity of a religious and moral teacher*, of the injury done to morality, by a system which tends rather to encourage than to deter criminals, by holding out no penalty calculated to counter-balance the force of temptation. And I subsequently dwelt on the several parts of that system, shewing, both from reason and from experience, its tendency to corrupt rather than reform convicts, and to demoralize both the Colony and the Parent-state. I was well aware, indeed, that there are persons whose religious principle will preserve them from being led into crime by external circumstances; and others, whom no external circumstances will deter from it when opportunity offers. But surely it will not be maintained that all mankind belong to one or other of these two classes. It is with a view, almost entirely, to those of an *intermediate* character, and consequently *capable* of being

deterred from crime, and *needing* to be deterred, that every community has had recourse to the denunciation of penalties.

But though the demoralizing effects of our system are what I have been so far from overlooking, that I have chiefly dwelt on them, it may be expected that a defender of that system, who charges me. with looking solely to the “dread of legal inflictions,” and disregarding the influence of religion, — that such a defender should see in the system, (however defective in other points,) at least an efficient provision for producing and keeping up the fear of God. Let us hear what he himself says on this point.

“Upon the whole, I must say, that if there  
“be no more serious objection to transportation  
“than the moral injury which the voyage occasions to the prisoners, very little stress can be  
“laid upon this. Under the care of a *vigilant*  
“and *judicious* surgeon, or of a clergyman, if  
“there be one on board, they may not only be  
“restrained from going deeper into vice, but  
“some of the number may be even instructed  
“and improved.”—P. 103.

It seems, then, that if there be a clergyman

on board the transport, or *if* the surgeon be vigilant and judicious, some of the convicts may possibly improve. “Your IF is a great peacemaker.”\*

But let us follow the convicts to the settlement. There at least, we may expect to find ample means provided for the religious improvement of all classes.

“You will remember the occasion, not long

\* To any one who wishes to know, without “ifs” or “mays,” something of the *actual* condition of convicts on board a transport, I would recommend, if he be not resolved to set testimony at defiance, to peruse an account, subjoined in the Appendix, No. IV., of the wretched beings wrecked in the Amphitrite. But the Archdeacon himself gives the sum of what is there more fully detailed, in a brief statement of his own. “I have conversed very extensively with the more respectable among the prisoners, and from a comparison between their statements, I am led to believe, that even while the outward conduct is brought to a forced regularity, great depravity does prevail in that class of prisoners: such as to render the association to which they are condemned exceedingly painful to men who have any sentiment of religion, or any remaining decency of character.”—P. 108. In fact there is hardly a statement I have made or a conclusion I have drawn in my former Letter that is not, after having been vehemently denied by one or more of these authors, fully and distinctly confirmed by their own testimony.

“ passed, of our visiting a very numerous road  
“ party, before whom I performed divine service,  
“ and you will testify, I think, that there could  
“ not possibly be a congregation displaying more  
“ fixed attention than these men, who continued  
“ standing during the prayers and sermon. I  
“ have not myself any such suspicion, but it  
“ might enter the minds of others, that the  
“ knowledge of your being present produced  
“ all this seriousness. But the many scores,  
“ perhaps hundreds, of occasions in which, in  
“ travelling through the country, I have offici-  
“ ated with exactly the same result, to prisoners  
“ belonging to private establishments, or to  
“ public road parties, and when there could be  
“ no such cause assigned for their attentive  
“ demeanour, forbid my thinking it other than  
“ sincere and unaffected.

“ The general lament among road parties in  
“ the interior of New South Wales, I have found  
“ to be the infrequency with which they are  
“ visited by a clergyman. In every such assem-  
“ blage I have observed many who evidently  
“ prayed with inward fervency; and my per-  
“ suasion is, that some good is effected, and

“ some comfort administered, on every such  
“ occasion; nor can I despair of the condition  
“ of men among whom I find so much thank-  
“ fulness to the preacher for his services, and so  
“ much respect shown to him in consequence.  
“ It is not possible that visits so rare and casual  
“ should generally produce any other than a  
“ transient impression. Indeed the best im-  
“ pressions, in every case, are produced, not by  
“ a clergyman preaching once and then going  
“ on his way, but by his living and abiding  
“ among the people, and affording them oppor-  
“ tunity of seeing his life, and knowing how  
“ far he practises what he preaches. I feel  
“ assured, that if it were possible to have  
“ among the prisoners a number of clergymen  
“ stationed, so that every large assemblage of  
“ them might know their own minister, and see  
“ him day by day labouring for their improve-  
“ ment, the effect would be truly beneficial. It  
“ would be difficult, but surely not impossible;  
“ to find men duly qualified, both by piety and  
“ discretion, who would devote themselves to  
“ this work. And, indeed, when I reflect that  
“ the nation which discharges annually so many

“ thousands of offenders from its shores, makes  
“ not the slightest direct effort for their religious  
“ instruction in the colonies, I can find no argu-  
“ ment which satisfies me, that such omission  
“ does not amount to even a national sin.”—  
Pp. 109, 110.

The Archdeacon then is aware, it seems, how little opportunity is offered, even to those who may be the most ready to receive religious instruction; and how “ transient must be ‘the “ impression ” produced by any means now in operation : but, then, he thinks that “ *if it were “ possible* ” completely to *change* the existing state of things, good would result.

Just so, *I* think.

But is this, then, let us ask, — is *this* the best conclusion we can arrive at, by “ duly pressing “ on the attention,” as the chief cause of crime, the decay of religious faith and fear ? If I, it seems, had sufficiently attended to this point, I should have kept clear of the danger of “ mis- “ leading those who follow ” me, and should have advocated a system, which does indeed leave the religious condition of the convicts, and of the colony generally, in the most deplorable state ;



but which *might*, if it were quite different from what it is, or has any prospect of becoming, be made “truly beneficial.”

As I feel persuaded of the sincere good intentions of the Archdeacon, I trust he will pardon my regretting that he did not read over the earlier part of his letter, (which, in that case, I feel sure he would have erased,) before he permitted the latter part to go to press.

Enough, your Lordship will perhaps think, if not more than enough, has been already said, in this and in the former Letter, to convince all who are not resolved never to be convinced, of the mischievous tendency, in all points of view, of our present system. But I cannot refrain from appealing to one authority on my side, which is entitled to more weight in the present question than that of Bacon, or of any of the illustrious of sages besides ;—that of Col. Arthur himself: who has pronounced the most decided condemnation of the whole of our scheme of colonizing with convicts.

This assertion may startle many of my readers,

and perhaps none more than the Colonel himself, who is evidently quite unconscious of the tendency of his own admissions. But I will proceed to make good my words :—

“ Lord Bacon’s declaration, to which I have  
“ already referred, has much force in it, as ap-  
“ plicable to the period in which he wrote. It  
“ is, as your Grace quotes him, ‘ a shameful and  
“ unblessed thing to take the scum of people  
“ and wicked condemned men to be those with  
“ whom you plant.’ There was in his time an  
“ abundant field for labour in England, and the  
“ inducements to commit crime were not power-  
“ ful. The citizen and the husbandman could  
“ by industry bring up their families in inde-  
“ pendence and afford them an honest example.  
“ If they were compelled to obtain their bread  
“ by the sweat of their brows, they were also  
“ happily enabled to mingle with every drop of  
“ that sweat, blessed ideas of virtue and inde-  
“ pendence. The population had not then out-  
“ grown the means of employment, and he who  
“ committed crime, and persevered in it, could  
“ not plead as his excuse the cravings of hunger  
“ or the effect of habits derived from the example

“ of his parents, and the teaching of his fellows. To plant new lands with such characters, would therefore, it was reasonable to suppose, be unsuccessful. The change effected by transportation, so far as they were concerned, would be one merely of place, not of circumstances. The advantages of labour would not be much greater in the colony than at home, and they therefore who had acted unblessedly there, were likely to continue so to do in their new places of abode.”—P. 41.

Bacon’s decision, then, against Colonies thus stocked, is admitted to be *just*, in respect to the state of things, *in his time*. Let this be kept in mind.

He would (Colonel Arthur conceives) have judged differently in respect of a country less prosperous, as far as regards the situation of the labouring classes, than England then was. Had he lived to see a great change for the worse in this point, he might, it is supposed, have approved of the system he then condemned. I myself do not think he would. But let it be supposed: for it is not at all material to the argument. The average condition of an indus-

trious labourer in England is *not* worse, but *better* than in Bacon's time ; so that whatever reasons justified, in Col. Arthur's opinion, his disapproval of Convict Colonies *then*, exist in at least equal force *now*.

As to the fact, Col. Arthur has been misled, apparently, by looking only to the absolute increase of population ; which is indeed greater in proportion *to the size of the country*, than when Bacon wrote ; but (which alone is the important point) less in proportion to the national *wealth*. In particular that portion of it which constitutes the fund for maintenance of labourers, is greatly increased in proportion to their numbers, since that period. Estimated even in wheat, the week's wages of a common labourer seems to have been, in Bacon's time, equal to about from three to four pecks ; now, to about five to six. In articles of clothing and most other *manufactured* commodities, the disparity is well known to be very much greater, in consequence of the improvements in machinery.

Since then, a Convict Colony was, as Col. Arthur admits, " a shameful and unblessed

thing" in the days of Lord Bacon, much more so must it be in these days.

I myself believe Bacon's objection to have been of much greater extent than is supposed by Col. Arthur: but, even according to his own view of it, he is driven unconsciously to give sentence of utter condemnation on the system he advocates.

A still more strange mistake however, relative to a matter of fact, seems to have been made by Capt. Basil Hall, if his evidence before a Committee of the House of Commons be correctly reported. That gentleman, who is described by Col. Arthur (p.9.) as taking "rather a favourable view of the prison-discipline in America," but who is generally considered as rather leaning towards an *unfavourable* view of all American institutions, is reported as having heard many Americans regret their *want of penal colonies*, and as describing the "evil arising out of this singular state of things." So the Americans, it seems, are *singular* in the absence of penal colonies; I had always thought the singularity lay with *us*. If Capt. Hall really did persuade any of the back-wood settlers in the United

States, that all the nations of christendom, except themselves, had penal colonies, he must have used the traveller's privilege with a boldness and a success truly astonishing.

The intelligent Commissioners whom the French Government sent out to inspect the American system of secondary punishments, have made some brief remarks (which I subjoin in the Appendix, No. V.) in a very calm and temperate tone, on *our* singular state of things. From what they say, and from other considerations, it may, I think, be anticipated, that if we persevere much longer in adhering to a system which has of late been so fully exposed, our legislature will become, not undeservedly, the scorn of the civilized world.

But the present system has sometimes, I am inclined to think, been even the more readily tolerated in the minds of some persons, from the very *enormity* and the palpable character of the mischiefs and absurdities which it involves ; which must, it is thought, be counterbalanced by some very great advantages : and these

accordingly are taken for granted as existing, even by many who would be at a loss to describe and estimate them; but who conclude that it is *impossible* a scheme should have been persevered in for near half a century, in spite of so many and such monstrous attendant evils, were it not found to produce some important benefits as a compensation.

And perhaps they are right in thus conjecturing that there *are* advantages; but I would caution them not to rest satisfied with this consideration, till they have ascertained *to whom* the advantages accrue:—to the public, or to individuals, at the expense of the public. A conflagration is a benefit—to firemen: a shipwreck is a benefit—to those on whose shore the wreck is cast: a general mortality is an advantage—to undertakers and sextons: and I have no doubt that our system of Transportation has its advantages (in the way of *present profit*)—to many who are engaged in the agriculture and commerce of New South Wales, or, in other ways, employed in connexion with our penal

colonies. And this, I suspect, constitutes one great obstacle to our immediate abandonment of the system.

I do not mean to impute to its advocates a deliberate design to sacrifice the public good to the private interests of themselves or their friends. But it is proved by all experience (especially in the history of every monopoly) that in such cases men are apt to impose on themselves, as well as on others, by confounding together and identifying their own interests or those of the class they belong to, with the interest of the community. Whatever is a profit or loss to themselves, they would be glad to think must be the same to the nation ; and they therefore endeavour (generally with success) to convince both the nation and themselves that this is the case.

Accordingly we find Col. Arthur (pp. 58, 59,) placing at the end of a long list of the advantages of the Transportation-system, those supposed commercial benefits, which I believe to have, in practice, the most weight in the defence of that system. The other heads relate to matters already discussed, and which therefore



I need not again notice more particularly : such as the utility of Transportation in the prevention of crime, by the dread of the penalty—by the *removal* of criminals (viz. from *one part of the empire to another*,)—by the reformation of offenders, &c. &c. ; in all which points he meets the arguments and the testimonies already adduced in my former Letter, by unsupported assertions. But the enumeration of advantages concludes with—

“ 7. An extension of the empire by the creation of colonies possessed by free men, whose emigration is encouraged by convict assignment, and for whom the convicts have acted as pioneers.”

“ 8. An increase of the exports and imports of England.”

“ Aye, there’s the rub!” Besides the great object of extending the empire (like the extension of a human body by the growth of some wen or other morbid and monstrous excrescence) there is the *encouragement of settlers*, by the advantage of convict-assignment ; and the increase of commerce.

No doubt agriculture and commerce are good

things : but gold may be bought too dear. Let any one but take the pains to calculate the total net profits of the “ increased exports and “ imports of England,” and compare this sum with the mere *cost* to the nation (waiving all other evils) of keeping up the whole establishment for the supply of this slave-labour ; and then let him compute how far the one over-balances the other.

In this, and in numberless other cases, the paradoxical appearance which such computations will often present, is explained by the consideration, that the *loss goes to one party, and the gain to another*. It is Government that bears the expenses ; *they* fall on the community : the profits go to the individual settlers, traders, &c. and the total gain thus occurring to the nation, may be utterly inadequate to the outlay, and yet may be a very important and desirable object to individuals on whom this outlay does not fall.\*

\* And yet it seems the expenditure is not sufficient, even in Col. Arthur's own judgment, to render Transportation efficacious, for its professed primary object as a penalty. “ I “ admit that the condition of these men, (the educated

But surely those who are deliberating with a view to the *public* good, ought in all cases to be very cautious in admitting the evidence of interested individuals, whose private advantage is not (though they wish to persuade both others and themselves that it is) necessarily coincident with advantage to the public. Much greater however should be our caution in respect of individuals whose interest (as in the present

“convicts and specials) though by no means so desirable as  
“it has been represented in England, has not heretofore corresponded with that of other convicts. In fact the only  
“hindrance in the colony to the perfecting of Transportation,  
“as a measure of prevention, has had reference to expenditure. The economy so much insisted upon in the present  
“day, has led to the employment of educated convicts as  
“clerks in public offices, and of expirees and emancipists as  
“inferior overseers, an incidental not necessary adjunct of the  
“transport system, originating in motives of economy, but  
“attended by injurious consequences—consequences which  
“however have been much exaggerated.”—Pp. 52, 53.

That a little less attention to economy would remove “the  
“only hindrance to the perfecting of Transportation,” is indeed a most rash conjecture: but many plans of wasteful expenditure (like that of the penal colonies) are conducted in detail with a penurious spirit which vainly seeks to remedy, by petty savings the ruinous extravagance of the system.

case) is manifestly and avowedly *opposed* to that of the public.

The Australian settlers conceive themselves to derive a very great advantage from the convict-labour.\* Any thing whatever that may tend to diminish this source of profit, they

\* "In the Swan River settlement," says Col. Arthur, "the scarcity of labourers arising from the absence of convicts will compel all but the most opulent to work for themselves. Many an educated man and delicate female will have cause to regret the arrangement which deprives them of the advantage of having convicts assigned to them. It is to deficiency of labour that the rusticity of the Americans, most remarkable in the states where there are no slaves, is to be attributed, rather than to the thin sprinkling of gentlemen of birth among the first emigrants. And the great progress in the arts of life and in that decent and orderly way of living which is so generally to be observed in this colony, may with every truth be attributed to the advantage derived from its being a penal settlement."—P. 45.

As for the superior gentility of the New South Wales settlements there may be different opinions. I should myself in choosing a residence prefer the "rusticity" of a country in which slavery of all kinds is unknown. But those who are accustomed to be served by slaves, probably think otherwise. Surely this is a reason for *us* to receive with suspicion their testimony in favour of a system, which secures to them advantages highly *prized* by *them*, but which may be purchased at the expense of too great sacrifice *on our* part.

naturally deprecate ; whatever tends to increase the number of convicts is for their gain. Here then is a class of men (we will suppose them to be, individually, as respectable characters as other settlers elsewhere) who have avowedly an interest in keeping up, not whatever may appear the *best* system of secondary punishment, but the *best for them*. Nay, they have a direct and manifest *interest in the increase of crime*.<sup>\*</sup> And is it on the evidence of *these* men that we are implicitly to rely, in an inquiry as to the

\* The leading article in the "Sydney Herald" of May last, in adverting to my former Letter, expresses apprehensions that my "view of prison-discipline, which is diametrically " opposed to the present system, may probably operate against " the *advantages of prison-labour which we have hitherto " enjoyed.*"

I should be sorry to interfere with their enjoyments, however I might differ in point of taste, were I not convinced that they are purchased at too great a cost of evil as well as expense to this country.

The projected new settlement in the southern part of New Holland is on a plan designed to obviate some of the evils, from which that at Swan River has suffered, without introducing those far heavier ones resulting from the introduction of convicts or any other description of slaves. I have subjoined in the Appendix, No. VI. an extract from the Prospectus.

most efficient system of punishments? “For fortifying a city,” said the tanner, “there is nothing like leather.”

I repeat, that I am not attributing dishonest motives to any individual. All who have written on this question, may, for aught I know, be as unconscious of any undue bias as I am myself. But it is undeniable that there is, in interested persons, a liability to such a bias; and that we are bound in prudence to make allowance for its existence.

I am very far myself indeed from thinking, that real, *ultimate good*, in the most comprehensive sense, accrues to the Colony from its being stocked with “wicked condemned men;”\* but present *gain* to many individuals does: and this most men are apt to pursue in preference to the ultimate and permanent benefit of themselves and their posterity.

The settlers accordingly, and others connected with the Colony, led by a sort of patriotic feeling for that Colony, to plead the cause

\* See Appendix No. VII.

of what they consider its good, (which, if it were real, ought not to demand the sacrifice of *our* good) are perpetually losing sight of that which is, naturally, a very subordinate object at least to them, though to us it ought to be primary,—the efficacy of Transportation in the diminution of crime, *here*. They feel called on indeed to say something from time to time, in its defence in that point of view; shifting their ground backwards and forwards, between the *reformation* of criminals and the *prevention* of offences; but it is evidently the prosperity of the *Colony* that really occupies the chief part of their attention. One out of many indications of this, is their strong and often repeated disparagement of the judgment of all who have not *been on the spot*. We, it seems, cannot possibly be acquainted with the details of the system:—we are destitute of experience:—our knowledge must be imperfect and inaccurate:—in short, we ought to have no voice in the question.

Now admitting all this;—which would be admitting far too much; since I have stated nothing but on the evidence of those who have been there, confirmed by the admissions of the

advocates themselves; — but admitting all this local ignorance, it is evident that the whole argument proceeds on the supposition, that the *Colony is the only thing* to be attended to. The settlers, we will suppose, must know best what benefits the Colony; but they cannot surely be the sole judges as to what are the secondary punishments that operate best for this country.

One of the writers before me recommends Transportation, not on the ground of what it has hitherto been, but of what it may *hereafter* become, under the operation of some new regulation. The others also recommend it, deprecating these very regulations, and reverting to what it *has* been, but is likely to be no longer. Neither party seems to speak in the present tense, but the one in the past and the other in the future. But supposing these advocates were agreed in their views, as much as they manifestly disagree, still, *we* also should be allowed to form our own judgments on the system, as far as relates to *this* country. It is only by making the Colony the primary, and indeed sole object, that they can maintain their *exclusive* claim to *practical knowledge* and experience.



When the advantages of any foreign commerce, that to China for instance—are discussed, British manufacturers and tradesmen are accustomed to speak of their experience respecting the demand in England for Chinese commodities, and the demand for ours as exports to China. Now would it not be strange for any one to put them all to silence, by saying, “ You can know nothing about the matter, because you have never been in China ?” They would answer, “ The residents in China may be the best judges of the benefit of the trade to *that* country, but *we* must surely know something of its effects at home : and, to the British nation, *this* is the important point.”

So in the present case also, it is the effect of Transportation, here, as a mode of secondary punishment, that is confessedly the important consideration.

And in this point of view, its advocates seem so conscious of the weakness of their cause, that their chief resource is to contrast it with other plans which either have been actually tried, or

are attributed to me as my proposals by way of substitute. Dr. Ross does, indeed, in one place, break out into a florid description of the situation of a transported convict (which he had, a little before, characterised as a “purgatory” (p. 58), and as a punishment of “extreme severity,” (p. 59), especially to the “unseared,”—the *least hardened offenders*) as greatly preferable to that of persons sentenced to the tread-mill. “How far more reclaiming than the tread-wheel is exercise of the very hardest kind among the works of nature! Can the eye of the most wicked—most viciously inclined, look upon the wide spreading lawns—the rising hills and mountains—the hanging, instructive and eloquent forests—the flowing river or the trickling streamlet clothed with the sweetest and most enchanting shrubs and flowers of this island, without self-reproach, without some sting of remorse? ‘Can I,’ he will say, ‘be thus criminal, be thus so basely ungrateful, while nature with beneficent hands, with outstretched arms thus draws me to repentance?’”—P. 83.

Now when I consider how large a portion of

the labouring population of these islands are compelled, not by their crimes, but by their wants, to pass the day in mechanical toil, in close workshops, in the midst of a crowded and smoky town, I cannot but rejoice in the thought, that the beauties of the New Holland scenery are not likely to be so strongly felt by them, as they are here warmly described. Otherwise, there might be a danger of their being so disgusted with the comparative closeness and monotony of the scenes around them, as to be weary of their life of honest industry, and envy the picturesque punishment of the convict: unless indeed they suspected some covert meaning in the words “*hanging forests.*”

But I am compelled to say there is an appearance (arising perhaps from his having inadvertently confounded one author with another) of disingenuous proceeding in Colonel Arthur's representation of what I propose in the way of secondary punishment, as a substitute for transportation. He all along proceeds, as far as I am able to understand his meaning, on the supposition, that I recommend the present plan to be superseded by one which shall maintain

the convicts at an expense of between 50*l.* and 60*l.* per annum, in a condition far preferable, in respect of diet, clothing, and comforts, to that of an ordinary labourer. “ But if the trans-  
“ ports to Ireland were fed in the same man-  
“ ner as men in the penitentiaries are, how  
“ would their lot be envied by the half-clad,  
“ starving peasantry of that ill-fated country !  
“ and if to this were superadded, the antici-  
“ pation that after the period of their servi-  
“ tude had expired, each was to be rewarded  
“ with a gratuity for his labour, in order that  
“ he might associate with it the notion of inde-  
“ pendence, or, in other words, that in return  
“ for his services he was not only to be fed  
“ and clothed, but also to be enabled to ‘ save  
“ money,’ the competition to obtain admission  
“ into the gangs would doubtless be very great,  
“ and an incentive to crime would be brought  
“ into operation, far more efficacious than even  
“ the prison and penitentiary discipline of Eng-  
“ land.”\*—Pp. 56, 57.

\* In my former Letter I expressed my apprehension that it would not be possible completely to effect, in Europe, the defrayal of the whole expenses of a penitentiary by the pro-

And his argument turns almost entirely on the superiority of the existing system to that with which he compares it, as the only alternative. “The maintenance and discipline (he had “before observed) in the penitentiary is stated “to cost about 56*l.* per annum.”

Surely any of his readers, who had not seen my first Letter, would conclude from these passages, that “*the Penitentiary*” meant some particular establishment, either proposed, or at

ceeds of the prisoners’ labour; as it appears is the case with some of those in America. I have since learned, however, that this object has been accomplished in Belgium.

In the Dublin Mendicity Institution the average cost per head of the diet, together with lodging, fuel, attendance and (partly) clothing, of adults (who are all kept at work as far as they are capable of it) is less than three-pence a day. And their food, though coarse, is wholesome and nutritious. Of course, from the nature of *this* institution, able-bodied and expert workmen will always form a smaller proportion to the numbers, than may be expected in a penitentiary. But let the inmates of a penitentiary be supposed to cost, *over and above the whole value of their labour*, three-pence halfpenny per day, or about 5*l.* or 6*l.* per annum; even according to this computation a convict would be maintained, *for five years*, for less than the mere cost of the *voyage alone* to New South Wales, independent of all the other expenses incurred in the colony.

least referred to, and recommended by me ; and that the system of diet and treatment, and the scale of expenditure, here alluded to, had received my distinct approbation. But why did not Col. Arthur refer to the precise page of my Letter, in which this recommendation is to be found ? Because (I am constrained to say) *there is no such* page ! The whole system of feeding and clothing, at such lavish cost, the convicts whose lot is to be so enviable, is, as far as I am concerned, purely imaginary, and fathered upon me without the slightest foundation.

It has indeed been shewn, on undeniable evidence, by the Poor-Law Commissioners, that the diet of a convict is superior to that of a pauper,—and this, to that of a soldier, and still more, to that of an independent labourer. But where have *I* recommended an adherence to this preposterous system ? It is possible, however, and I sincerely hope it will be made to appear, that Col. Arthur has inadvertently confounded a portion of some other work with mine.

But not only is it untrue that I have recommended the substitution for transportation, of *precisely such* a penitentiary system as has been

attributed to me : it is incorrect, altogether, to represent me as advising the *immediate* adoption of *any* particular system as a substitute. On the contrary, I distinctly declared my conviction of the impossibility, in the present state of our knowledge on the subject, to come to any well-warranted immediate decision, as to what substitute would be the best. I recommended accordingly, investigation and experiment, by means of a commission appointed for the purpose. I did, indeed, suggest some principles which I thought it would be useful for such a commission to keep in view, and some experiments which they might, perhaps, think it worth while to try. But if I had made up my mind as to the expediency of at once fixing on a certain specific system, what could have been the object of the *commission*, or of *inquiry*, or of *experiment*? And yet both Col. Arthur and Archdeacon Broughton (taking no notice of the commission, which is what I did recommend,) refer again and again to “the system which I propose ;” when it is not only not true that I proposed *any one*, but impossible that I *could* have done so, without a palpable self-contradiction.

“ I am inclined to think, therefore, that the  
“ confidence with which several persons have  
“ advocated each his favourite plan of prison  
“ discipline as preferable to all others, must be  
“ somewhat premature. It is but of late years  
“ that the subject has engaged any large share  
“ (and it still engages much less than it de-  
“ serves) of the attention of active and intelli-  
“ gent men, at once philosophical, and practically  
“ observant: and I am convinced we have still  
“ much to learn, which experience, aided by  
“ careful reflection, can alone teach. In the  
“ present state of our knowledge, therefore, it  
“ would perhaps be our wisest and safest course  
“ to establish, in different places, *several* peni-  
“ tentiaries, on different plans, such as may  
“ seem to have the most to recommend them;  
“ and after a trial of a few years, to introduce  
“ modifications as experience shall suggest, and  
“ remodel the less successful on the pattern of  
“ those which may be found to answer their  
“ purpose better.

“ I do not, of course, mean that we should  
“ try experiments at random, or adopt every  
“ suggestion of the wildest theorists: but if



“ we made trial of those plans in favour of  
“ which sound reasons could be offered, and  
“ were careful to guard in every case against  
“ such errors as might plainly be shewn to be  
“ such, and to tend towards the defeat of our  
“ object, there can be little doubt that, in the  
“ course of a very few years, we should be  
“ enabled, by attentive observation, to ascertain  
“ what system worked best. And we might rest  
“ assured, in the mean time, that none could be  
“ more exceptionable than the existing system  
“ of transportation.”

“ I will take the liberty, therefore, of most  
“ earnestly recommending the appointment of  
“ a Board of Commissioners, analogous to that  
“ which is now occupied with the no less im-  
“ portant subject of the Poor-laws, and from  
“ whose labours every one, who is acquainted  
“ with the character of the individuals com-  
“ posing it, must hope for the most favourable  
“ results.

“ Whether the legislature is constituted in  
“ one way or in another, it is clearly impossible  
“ that it should be capable of going through,  
“ with proper care, all the necessary details of

“ that vast and heterogeneous mass of business  
“ which belongs to its decision. And those  
“ who are at all acquainted with parliamentary  
“ proceedings, have no need to be reminded  
“ how much slovenly legislation has resulted  
“ from the non-adoption, or very slight and  
“ imperfect adoption, in the highest department  
“ of all, of that important principle, division of  
“ labour ; but for which, even the humblest arts  
“ could never have been brought to any degree  
“ of perfection.”\*

It will be plain, from the above extracts, how utterly at variance with what I really did recommend are the representations that have been made of it.

But one point I certainly did consider as already settled. The experiment of Transportation I considered as not only tried, but persevered in beyond the reasonable bounds of experiment ; and to have proved a complete and most mischievous failure. And if I had had any lingering doubts on this point, they

\* Thoughts on Secondary Punishments, pp. 10—12, 43, 44.

would have been completely removed by the publications now before me; in which, besides the many mutual contradictions, and the many admissions fatal to the cause advocated, which I have here extracted, there are many more of a like character (as every reader of them may easily perceive) which I have left unnoticed for fear of wearying my readers with superfluous refutation.

One more instance will suffice. These authors agree in thinking the experiment of Transportation has *not* yet been sufficiently tried, but as to the way *in which* it should be tried, they are quite at issue:—The Convicts, Colonel Arthur informs us, (p. 25.) “are made to work out their “bondage either in assignment, in the service of “Government, in the road gangs, in the chain “gangs, in the penal settlements, or in the “chain gangs in the penal settlements. This “distribution is regulated by character and conduct, and by no means by an arbitrary disposal. Of all the conditions in which they “can be placed, that of private assignment is “the most desirable, and that of being placed “in a chain gang in a penal settlement, the

“ most harassing, degraded and miserable !” And again (p. 32), “ Persons who for occasional purposes obtain men from the loan gang, are much more apt to abuse the trust confided in them than ordinary assignees, and this is an important objection to the system of contracts, which has lately been brought into operation in the colony. Contractors for public works generally stipulate for a certain number of men from the loan gang, as on account of the scarcity of free labourers they could not otherwise complete what they undertake. And it is almost invariably found that the convicts who have been put under their charge, have by no means derived any benefit from it.”

And now what says Archdeacon Broughton? “ I am no admirer of a state of servitude by assignment, or of the exercise of summary jurisdiction. I cannot hesitate in thinking that they are in themselves great evils; and, when all attendant mischiefs, direct and indirect, which result from them, are taken into consideration, I think that the community in which they exist is paying a very heavy tax for the

“ financial advantages which the convict system  
“ may confer.”—P. 104.

Such is the mutual co-operation of these brother advocates; whose discrepancy extends to almost every possible point, from the most general view of the whole system down to the minutest details in the working of it. “ Call  
“ you this backing your friends? a plague of  
“ such backing!”

Our present situation reminds me of that of one of the unfortunate dupes of the projectors in Alchemy, of whom there were so many, two or three centuries back. One of these, eagerly listening to promises held out of converting lead into gold (which I believe will be effected when convicts are transmuted into useful settlers) pursued perseveringly his search after the philosopher's stone, and in spite of repeated and lamentable failures clung with unsubdued fervour to the dreams of boundless wealth in which his imagination revelled. Crucible after crucible was broken; his actual wealth melted away before his eyes in his pursuit of ideal: yet still the moment of projection was anxiously looked for: and if at length, heart-sick from

hope deferred, impoverished and disheartened by the blowing up of one laboratory after another, he seemed verging towards despair, the insatiable transmuters rallied his hopes with fresh and more confident assurances. They had certainly been on the very eve of the discovery; and if he should now desist, all his past trouble and *expense would have been thrown away*: every failure could be accounted for: one said the furnace had been too hot; another, too cool; but all agreed that if he would but persevere, and go the right way to work (though *at variance with each other as to which was the right way*) he would be sure of ultimate success.

To me, I must confess, it does appear that we have been deluded by the dreams of this legislative Alchemy quite long enough, and that • it would be our wisest plan to demolish at once the whole apparatus, and begin, immediately, some *better* course, while we are deliberating and inquiring which is the *best*. But at any rate, let us *inquire*. Should it be thought that the question respecting Transportation is not fully settled, let *that* be *included* in the inquiry: let it be added to the list of other systems of

secondary punishment, actual or proposed, that shall form the subjects of examination and comparison by a Commission. But at least let us not resolve, at once, in blind confidence, to persevere at all hazards in a system whose advantages are, *confessedly*, prospective only, and contingent on the successful adoption of new and untried modifications; for the very plea of the advocates themselves is, that the experiment has not yet been *tried* in the proper way. If therefore we are resolved to admit of no *changes* in any thing, but to go on, right or wrong, in the course once adopted, then, Col. Arthur's projected modifications must be abandoned: if, on the other hand, we think it right to inquire at all, what plans will answer best, let us inquire *thoroughly*; and not take for granted that we *must*, at all events, retain • Transportation, and have only to consider how to make the best of *that*; but compare together, that, and other plans of a different character.

To concede that the Transportation-system may be admitted, along with others, as a matter for further inquiry, instead of being at once rejected, is surely conceding a great deal; con-

sidering that by the unconscious admission of its advocate, it is, at the present day “a shameful and unblessed thing,” and that such a vast amount of evils resulting from it have been so long before the public, in statements which were then only denied, when there was a particular object in denying them. But to cast aside all doubt,—reject all proposals for further inquiry,—and proceed confidently with the present system, as if clear of all suspicion, would be a rashness which might be characterised by a still stronger term.

But since the main feature of my recommendation—the appointment of a commission for inquiry,—does not involve the immediate abolition of Transportation, nor even its abolition at all, should it appear, on a fair comparison with other plans, worthy of being retained;—since, in short, such a Commission could not be inconsistent with the existence of *any* plan that should be proved salutary,—why have none of those who have undertaken to defend the cause, attended to this circumstance?



why does neither Col. Arthur nor either of the others suggest a modification of my proposal, that penal colonies, *as well as other* penitentiaries, should be subjected to the investigation of the Commission alluded to : adding that though such an investigation might perhaps be superfluous, it would, at least, throw additional light on the superiority of their system to the rest ? And why, in short, have they *never alluded to the proposed inquiry at all ?*

I cannot but think we have good grounds for suspecting a reason for this suppression ; viz. a secret consciousness, that the system would not *stand the test* of inquiry ;—that it would not *bear* investigation ;—and that the only hope of maintaining it, was in deprecating inquiry and persuading the public, by confident assurances, to acquiesce blindly in things as they are. If such a suspicion be unfounded, it is they who have given a colour to it.

Be this however as it may, the fact of the omission is before us. No reason is adduced why the proposed inquiries and experiments should not be made, under such a commission as I ventured to recommend—inquiries and

experiments whose results must be to *prove the superior advantages* of the present system, if they have any real existence.

To accede to such a proposal would not (we should remember) necessarily imply an immediate *condemnation* of the system, but only bringing it to trial: to reject the proposal, and *refuse inquiry*, would imply an immediate and *decisive approbation*. It would imply that there is not even any prevailing *doubt* on the subject in the public mind, nor any *ground* for doubt. And which would be the more rash and which the more cautious procedure, let any one judge.

I am anxious therefore that it should be distinctly perceived what is the present state of the question between the advocates of the system and its opponents. If *our* conclusions be fully admitted, the practical result must be, a resolution, as the first step, to abolish at once the system of Penal-colonies. If *theirs* be admitted,—or rather *some* of them, to the rejection of others, since they are mutually contradictory,—if we fully make up our minds to acquiesce with unhesitating confidence, in Col. Arthur's views,

in spite of what is urged by his auxiliaries,—then, we must persist in the system, without further inquiry. But if a *doubt* remains in the mind of any reader, whether they or we are in the right—if he is not quite *certain*, which party has the better of the argument, then it is plain, he should decide in favour of the investigation, and merely require that Transportation should be included along with other subjects of inquiry.

But against commissions of this kind a far different class of objections have been urged, and from a different quarter. The whole system of appointing a commission to examine into a particular class of subjects, — to digest the evidence collected, — and to suggest legislative measures, founded on the knowledge thus acquired, — has been loudly condemned, as tending to supersede the powers of Parliament. A cursory reader of these complaints, in some distant country, would be apt to conclude that such commissioners were invested, or intended to be invested, with power

to *enact laws*. But what would be the astonishment of such a reader, on learning that the utmost legislative power given or proposed to be given, to commissioners, amounts only to the *recommendation* of laws?—A power with which the right of *petition* has long since invested *every individual* in the realm! And whatever weight their recommendations can possess with Parliament must depend on the opinion which Parliament itself may form of the diligence, uprightness, and good sense of the persons employed, and of the soundness of the reasons they may assign. As well therefore might it be said that the authority of a General is suspended by the aid-de-camp whom he may despatch to procure intelligence: or that the powers of a jury are destroyed by the pleadings of the counsel on both sides, and by the judge's summing up. If a jury were left to examine, for themselves, all the witnesses,—to ascertain unassisted all the points of law,—and to suggest to themselves all the arguments for plaintiff and defendant,—and if they were left to try, on such a plan, a vast variety of causes of the most heterogeneous kinds, in a short space of

time, they would then be in a situation analogous to that in which Parliament is often left ; and it might be expected that their decisions would often be of that crude and hasty character which, it cannot be denied, has but too often been justly complained of in Acts of Parliament. One striking instance, — or rather a long series of instances, — of this defective legislation is afforded by the case of the numerous acts — amendments — repeals — and re-enactments, in reference to the poor-laws.

The commission appointed to inquire into this subject, (adverted to by way of example in my former Letter,) has not hitherto disappointed, but rather surpassed, any reasonable hopes ; having even already laid before the public more information, on points connected with the inquiry, than had ever been collected before. Indeed, one of the complaints against this commission is, that it has obtained us *too much* knowledge ; for even the specimen already published, in one thick octavo, has been censured as voluminous ; a censure which must have reference to the *quantity of matter* comprised in the volume, not to its being *verbose* ;

as it evidently compresses into a comparatively very small space a mass of evidence, which, in the ordinary form of the Parliamentary Reports, would have filled several folios. And so great is the advantage of merely enabling all to observe the immensely different consequences of the different modes of administering even the existing laws, and of shewing how each abuse or improvement has been introduced, that even if the whole benefit were to stop there, and no legislative changes were to be made, still I am convinced, that the spontaneous changes for the better which would be introduced, merely through increased knowledge, would be (though far short of what I trust may be looked for,) yet well worth all that the commission has cost. There are even single parishes, in each of which, (looking to pecuniary advantage alone, which is far less important than moral improvement,) the saving in poor-rates, through the adoption of such improved management as other parishes are thus taught to copy, would nearly, if not quite, equal the whole expense of the commission. And I fully anticipate, that the next returns of the total amount of poor-rates will

prove that the benefit of such examples has not been entirely lost.

Such a statement will probably startle those who have been taught to believe, that one great objection to commissions of this kind is the ruinous *expense* of them. We have heard complaints, in reference particularly to the Poor-Law-Commission, of “an adequate quantity of salary and patronage.” A two-fold evil has thus been brought before the public mind; not only the actual pecuniary loss, but also the probable danger that such lucrative situations should be filled by incompetent men, selected with a view to their own benefit, more than to the public service; in short, that the whole business should have been made a job. And “it is proved,” we are assured on the same authority, “that the commission was appointed, “not for the investigation of *truth*, but expressly “for the purpose of finding only a *preconcerted* “class of facts, and recommending a predetermined line of opinions;” and one sufficient proof, it is added, of this, is, that one specified individual was appointed the “chief acting man” of the commission.

What must the nation think of those who are believed to be thus squandering the public money for such iniquitous purposes? But what will it think of the authors of this charge, when it appears that the whole of it, from first to last, is neither more nor less than an absolute falsehood? The salaries of the Poor-Law-Commissioners, amount—as your Lordship well knows, and as the public ought to know, and will know,—to *nothing at all*. The coin in which they are paid consists in the hope of benefiting their country,—in the applause of the wise and good,—and in the clamorous attacks of anonymous calumniators, whose censures are the only honour *they* can bestow. And as for *patronage*, it has consisted in their inducing some of the most respectable gentlemen in the community, in point of knowledge, talents, character, and station, to carry on laborious and difficult inquiries, without any remuneration, except the mere payment of their travelling expenses!

Such is the dependence to be placed on the statement of *facts* by the assailants of this commission! I cannot but think that if such



writers had resided but a few days among the Houyhnhnms, they would have constrained that innocent people to enlarge their vocabulary.

It is also false, that the individual whom these unblushing calumniators designate, (or, I may add, *any one* else,) ever was appointed the "chief acting man" in the commission, or in any way entrusted with any different office from the rest of the members: as false as that the commission was appointed, "not for the investigation of truth;" or that, if such a corrupt and fraudulent design had been entertained, the respectable individuals (including two distinguished prelates of the established church) would have taken a part in it.

But when it is considered what a multitude of cases have been brought before the public, each with the names of places and persons, and all the particulars, distinctly specified, so as to enable any one with ease to make such inquiries as will verify or refute the accounts, it must be admitted that there is something very curious in the charge brought against the Commissioners, of seeking "not for truth, but for a preconcerted class of facts." As if *facts* of any given

character, and that too to such an amount as to be complained of as voluminous, were easily to be found by any one who wished for them! The conduct either of the Commissioners, if their statements are false, or else of their accusers, exhibits an instance of audacity or falsehood that is hardly to be paralleled.

When the opponents of a commission are driven to resort to such foul slanders as these, for want of better topics, may it not be fairly suspected that their real objection is a fear lest the commission should be found to *work too well*, and to reflect more credit than they wish, on the advisers of the measure? So great, it seems, is the alarm felt, that 'further attacks on the Poor-Law-Commission are threatened; and, indeed, I know not why they should not be carried on to any extent that may be thought requisite; since such assailants need be at no loss for matter of accusation, till their powers of invention are fairly exhausted.

And yet it is possible (for I would gladly make the most favourable supposition) that the propagators of these statements may not have actually *known* them to be false; and may, on

their next return to the charge, retract them. It is possible they may have proceeded merely on conjecture; not thinking it necessary to verify by inquiry the conclusions drawn from their experience of human nature; that is, of their own nature, and that of the persons they may have been accustomed to act with. If none of these have ever evinced such public spirit as to undertake a troublesome office without "adequate salary and patronage," or such uprightness as to make the "investigation of truth" and the public good their object, instead of some personal or party-advantage, it is but natural they should take for granted that all others are of like character, and should attribute without hesitation similar views to such men as the members of the Poor-Law-Commission : \*

\* The names of those individuals (which I subjoin) would furnish alone a sufficient answer to the calumnies with which they have been assailed.

C. J. LONDON.

HENRY BISHOP.

J. B. CHESTER.

HENRY GAWLER.

W. STURGES BOURNE.

W. COULSON.

NASSAU W. SENIOR.

H. TRAILL.

“ Non vivitur istic

“ Quo tu rere modo : domus hac nec purior ulla est

“ Nec magis his aliena malis.”

Painful as it is to contemplate the existence of malignant detraction and party virulence, those engaged in a good cause ought not only to feel no discouragement at being so assailed, but to congratulate themselves on finding such weapons (which in the end are always hurtful to the cause they support) employed against them, rather than on their side. And in particular, every one who is engaged in exposing and endeavouring to rectify any existing abuse, should be prepared to encounter, from those whose interest or prejudices enlist them on its side, with opposition the more strenuous in proportion as his efforts are the more likely to succeed. So far, therefore, from being intimidated, he ought rather to be encouraged by such opposition, as in some degree a favourable sign. And if assailed with calumny and insult rather than with calm and courteous reasoning, he should consider that this furnishes, to a certain extent, an indication which party is on the side of

sound reason, truth, and justice; and should regard it as an advantage when an adversary of these hoists his true colours, and proclaims himself such, by his language and demeanour.

Accordingly, in reference to the present subject, I observed in my former Letter, that “that person is more truly and properly *compassionate* (to waive all other considerations), “who sets himself to devise means for the protection of the unoffending, than he whose “kindly feelings are bestowed chiefly on the “violators of the law. And yet the former “must prepare himself to expect from the un- “thinking, who are, in most places, the majority, to be censured as hard-hearted. In “pleading the cause of the innocent in opposition to the guilty,—in urging the claims to “protection of the peaceable and inoffensive “citizen, against the lawless plunderer or incendiary,—and in wishing that honest men may “be relieved from the misery of perpetual terror, “by transferring that terror to the evil-doer, I “am sensible that I expose myself (such is the

“strangely perverted state of many men’s feelings) to the charge of inhumanity.”—Pp. 33, 34. And never is the very existence of such a state of feeling, as I there adverted to, likely to be more strenuously and indignantly denied, than when it is most prevalent. Whenever there happen to be many who, either from a fellow-feeling with the guilty,—from confusion of thought or from a generally depraved state of moral sentiment, are disposed to deprecate the punishment of offenders, and to compassionate *them* more than innocent sufferers, and when there are others who, from their own interested or ambitious views, labour, for the sake of popularity, to excite and keep up this depravation of the public judgment, then it is that the exposure of it is the *most* likely to raise an outcry, as a “libel on “the national character.” Those who are themselves infected with this perversion of sentiment, are of course unconscious of it; and those who seek to foster it, are the last that are likely to acknowledge it.

In this accordingly, as well as in several other points, the approbation, and the vituperation, with which my views have been received, are,—

considering the quarters they respectively come from,—equally acceptable.

With respect to the share I have myself had in calling public attention to the subject of secondary punishments, and especially Transportation, I need only remark, that though it is no more my concern than that of many other members of the legislature and of the community, who feel an interest in the public welfare, but who have not turned their thoughts to this particular point, still, it must be admitted (without casting any blame on others) that if no one were ever to pay attention to any public object, that did not officially fall within his own peculiar province, and which therefore he could not individually be censured for neglecting, many more evils would remain unremedied, and many more benefits to society unattained, than under the prevalence of a more comprehensive public spirit. My own attention was turned and often strongly recalled to the subject, by several accidental occurrences, which brought under my notice facts connected with it; chiefly, while rector of a parish in a populous district. And if to reflect and inquire as to the means of remedying

or alleviating important moral and political evils, be officious and indecorous for any one on whom that particular duty does not officially fall, I must plead guilty to the charge.

But the odious subject of punishments, it may be said, is one which a person in my station and profession, ought as much as possible to shrink from. However productive of misery and of demoralization, any practice connected with this subject may be, I ought, it seems, to avert my eyes from a painful spectacle, in order to obtain credit for humanity.

I adverted, in my former Letter, to the miserable sophistry that is afloat in reference to what is considered as humane conduct. " Humanity " in punishment, *i. e.* care to avoid the infliction " of any *useless* suffering, is one of the points " which I have mentioned as claiming our atten- " tion: but though no one can have, strictly " speaking, too much humanity, it is very pos- " sible to be led by an injudicious and mis- " directed humanity. Neither compassion, we " should remember, nor any other feeling of " our nature, is, in itself, either virtuous or " vicious, but only so far as it is or is not under



“ the control of sound principle, and under the  
“ guidance of right reason. But the word ‘ hu-  
“ manity,’ being applied loosely and indiscrimi-  
“ nately to the *feeling*, and to the *virtue*, leads,  
“ in many cases, to such conduct as is absurd  
“ and pernicious.”—Pp. 13, 14.

Now the real state of the case is, that the truth of the above maxim is either denied, or doubted, or more or less clearly perceived, in proportion, generally speaking, to the deficiency, or greater or less endowment, of a benevolent disposition in each individual. Those in whom that disposition is not strong, but who are accustomed to act on principle, are disposed to regard benevolence *only* in the light of a virtue ; because with *them*, every manifestation of it, is a virtuous *effort* directed against their natural selfishness. They are perhaps startled at being told of benevolence ever being, by any possibility, in whatever way indulged, a weakness ; because *they* are not prone to any weakness of *that* description. They find themselves called on to guard against a deficiency, but seldom or never, a misdirection, of kindly feelings. And their indiscriminate approbation of such feelings,

which is in fact the result of their scanty endowment with it, they not unfrequently regard as a proof of their superiority in this point, over others who judge differently, in consequence of the very circumstance of their having a more benevolent disposition.

For, those whose temper is the most humane, and who are at the same time accustomed, to study their own character, and to act on principle, are sensible that their feelings, in this as well as in other points, will be an unsafe guide, except under the direction of a well-regulated judgment. “ But those (I added) who “ act from feeling, and not from principle, are “ usually led to show more tenderness towards “ the *offending* than the *unoffending*: *i. e.* towards the culprit, who is *present*, and the “ object of their senses, and whose sufferings “ or apprehensions they actually witness, than “ the absent, unknown, and undefined members “ of the community, whose persons or property “ have been endangered by him. We *feel* for “ an individual, especially if before our eyes, “ even though guilty; for the *public* no one has, “ or can have, any feeling. Public-spirit, there-

“ fore, implies a benevolent *habit* ; and that combined with something of reflective abstraction.”  
—P. 14.

With regard, again, to the mode of proceeding recommended,—the proposed appointment of a Commission, the benefits even already apparent, resulting from the labours of some of those that have been appointed, and, much more, the benefits which may be fully anticipated, when their reports and suggestions shall be laid before the public complete, will supply a much stronger and more popular argument, in favour of such a mode of proceeding, than any reasoning from probabilities could afford. I am content to stake the whole question, as to the reasonableness of this portion of my conclusions, on the success of the experiments, which, partly, have been tried, and partly, are now in progress, as to the utility of the Commissions which have been hitherto appointed on a similar principle.

I am not without strong hopes that such a Commission may succeed in devising some modes of secondary punishment, even preferable to any that have anywhere hitherto been in use. That

they will be able to point out several, each far superior to Transportation, I have the fullest confidence. That they will find any, quite unobjectionable, and combining all conceivable advantages, without any drawback, I have little hope. Where do we find a law on any subject,—a tax,—form of government,—or human institution of any kind, of which this can be said? And yet it is common for the advocates of Transportation, when hard pressed on the evils of that system, to ask what you would substitute for it: and when any substitute is suggested, to raise objections (often valid) against that; and require that *till* these are removed, the present system should continue. It seems modest to ask only that we should go on as we are, not, *for ever*, but *only, till* some plan perfectly free from all objections shall be fixed on; which is, in fact, “for ever.” If we were to proceed universally on this principle, we should enact no laws,—no punishments,—no taxes,—no mode of government at all; since none ever has been or can be devised, against which there are not objections. The *fair* requisition is, to suggest some system *less*

objectionable than the present. Whenever *this* cannot be done, I admit that the presumption against a change holds good. But in the present case, the difficulty would be to find any system that should *not* be less objectionable than Transportation.

On the grounds here stated then, and on those briefly set forth in my former Letter to your Lordship, I feel justified in earnestly repeating my recommendation of the measure of appointing a commission, for such purposes and with such powers as I there described; viz. to inquire into the nature, apparent effects, and all other circumstances, of the various modes of preventing crime, that are now in operation,—whether by punishments of different kinds, or by police-regulations;—to introduce such changes as may promise to lead to advantage into the detail of the management of any of the existing penitentiary-establishments, or other systems of penal labour and confinement;—and to recommend such legislative enactments for the improvement of any portions of our preventive, penal, and corrective system, as may appear, from the inquiries made, to be called for.

To recommend that the persons appointed to act under such a commission, should be men of uprightness, activity, and intelligence, looking rather to the public good than to "salary and patronage," would be superfluous. And it might seem no less superfluous to point out that they should be honestly devoted to the "investigation of truth;" not to the promotion of some "preconceived scheme" for the advancement of party purposes. But, strange as it may seem, an ardent entire devotion to the cause of truth, has been held up to suspicion, if not to reprobation, as a dangerous quality. I myself in particular have been denounced as a person hardly fit to be trusted in such a station as I occupy, on account of (what I certainly am not disposed to disclaim) an uncompromising zeal in seeking for and maintaining truth; a quality which must render, it is said, my alledged errors the more dangerous. And such a principle, it should be remembered, is applicable, not to the case of a single individual only, but universally. For since *no man*, unless claims to infallibility be admitted, can be exempt from liability to *some errors*, and these, it seems, become more

mischievous in proportion to his sincerity, it follows, that, universally, a thorough devotedness to truth is to be regarded with distrust as a pernicious and dangerous endowment.

But notwithstanding any plausibility this reasoning may possess, I cannot but heartily wish that such a love of truth were much more prevalent than it is. And I feel convinced that if those who think otherwise, would but agree fairly and fully *to try the experiment*, they would find the dangers they apprehend from that quarter to be much less than they suppose. For, in the first place, it should be recollected, that the sincere lover of truth is somewhat the more likely, from this circumstance, to *attain* truth. Though by no means exempt from liability to mistake, he will at least (in proportion as he is of the character supposed) be guarded against one class of delusions;—those which are so apt to bias the judgment of the insincere. For it is notoriously common for those who persevere in maintaining any falsehood, to bring themselves at length to believe it. This indeed is described in Scripture as the appropriate punishment, according to the course

of providence, inflicted on insincerity. On those who "do not like to retain truth in their hearts," God "sends a strong delusion, that they should believe a lie."

In the next place it must be remembered that a real lover of truth will at least maintain *no errors but his own*; whereas men of an opposite character, *besides* any errors of their own judgment, (to which they are as liable, we should remember, as other men,) are ready to maintain other errors also, which they perceive to be such, but on the side of which their interests or passions may enlist them.

We should consider likewise that he who honestly proceeds on conviction, is the more likely to be *open* to conviction; and if satisfied by fair proofs that his opinion is erroneous, will at once abandon it. But a person of a contrary character, is,—by argument at least,—incurable. He who even happens to believe any false notion he may be maintaining, yet maintains it not *because* he believes it, but because it suits his purpose, will be never a step the nearer to removing it for all the reasons that can be adduced. It is lost labour to attempt shaking



his conviction, even if real, when that conviction is not so properly the *cause* of the course he pursues, as the effect of it. This observation indeed is so trite as to be embodied in the Proverb :

“ He that's convinced against his will  
“ Is of his own opinion still.”

I would further observe, that one sincerely devoted to the cause of truth, though he has in some sort an advantage, even in pleading the cause of an error, in that air of sincere belief which it is so difficult to *assume*, yet, on the other hand, is so far the less dangerous when he happens to be on the wrong side, that he feels himself debarred from the use of one whole class of weapons, which are so often found serviceable in the cause of falsehood ;—from all the dishonest artifices, of suppressing, disguising, and inventing facts, or employing fallacious arguments whose unsoundness he himself perceives. All such arts are indeed hurtful in the end to the cause, at least, of truth ; but they often produce a temporary effect ; and are often available for the support of such errors as could not

otherwise be maintained at all. Accordingly I should say, that, as far as my own observations have extended, those most sincerely devoted to the pursuit of truth, are, though in *that* cause the most powerful advocates in the end, yet not on the whole the most formidable defenders of any mistaken views.

And I would add, lastly, that I have also observed in those who are the least scrupulous in respect of truth, a much greater degree of malignant bitterness of hostility towards opponents. It is a matter of common remark, that the opposition arising out of passion of any kind, or self-interest, is incomparably more fierce, than that which proceeds from mere difference of judgment. And hence, each in proportion as the principles which he upholds are adopted rather from the dictates of passion, or of interest, than from a sober conviction of their truth, is liable to increased feelings of rancour against those who differ from him. And the more forcibly the falsity of any thing he maintains is brought home to his understanding, the more will his half-stifled consciousness of being in the wrong, incense him

against those who excite this inward feeling of self-reproach, by detecting to himself his own sophistry. There is something peculiarly provoking in being required, on what we feel to be *good* grounds, to abandon some position which yet we have resolved at all events not to abandon. Those, on the contrary, who agree in their love of truth, and honestly differ in a matter of judgment only, are not usually such acrimonious opponents of each other : and each, in proportion as his opinions on any subject have been formed on the more diligent and cautious investigation, is the better qualified to estimate the causes of mistake, and the readier to make allowance for others who may have fallen into such mistakes. It is only towards the manifestly insincere,—and towards them with more of disdain than of acrimony,—that the feelings of those devoted to the cause of truth are usually excited. But to that perturbation, and agitating alarm, which commonly lead to intemperate violence, or malignant bitterness, they are less and less liable, the longer and the more earnestly they are devoted to the cause. For to him who is engaged in that

cause, it is one of the rewards of unflinching, undeviating, unwearied perseverance in it, that he will obtain more and more of a full and calm confidence in its ultimate success: he will be more and more satisfied, that though sophistry and calumny will often, for a time, overlay and disguise the truth, as snow-drifts and frost-work do the surface of the earth, they are no less certain, if we wait patiently, sooner or later, to melt away.

In defending, even thus briefly, a quality which I regard as so important, from the charge of being pernicious or dangerous, I shall perhaps appear to many of my readers to have undertaken a superfluous task. I have only to add my most hearty wish, that in thinking so they may be in the right. But fully expecting, as I do, that the proposed Commission, if appointed, will be assailed, from various quarters, with unsparing obloquy of various kinds, I could not but thus proclaim my conviction that its defence must be sought in a strict adherence to the cause of truth; and that, that cause will, in the end, prove triumphant. That Commissioners of undeviating uprightness and intrepid

public-spirit must be sought for, and that such may be found, I am fully persuaded. That they may be censured by some as *not* being devoted to the "investigation of truth," and by others, perhaps, as advocating some erroneous conclusions, the more dangerous *on account of* their devotion to truth, and that they will be exposed to every other reproachful imputation that the factious, the prejudiced, and the selfish can heap upon them, is highly probable. But I can have no doubt that if they persevere undaunted in the discharge of such duties as I have supposed entrusted to them, they will bring about the most important public benefits, and obtain, sooner or later, the nation's gratitude.

I fully trust that his Majesty's ministers will not be intimidated by declamatory and groundless vituperation, from perseverance in any course of measures which calm reason may dictate and experience sanction, as beneficial. And I trust they will be deterred neither by vehement, but unproved assertions, nor by the clamour of those who are either interested in the support of abuses, or courting by the lowest

means the lowest kind of popularity, from fully and fairly investigating a subject, which, in the opinion of a large and intelligent portion of the community, calls loudly for inquiry; or from adopting boldly whatever measures may seem best adapted to remove or to alleviate evils which have been already too long submitted to in thoughtless apathy.

I have the honour to be,

MY LORD,

Your Lordship's faithful

and Obedient Humble Servant,

R. DUBLIN.

DUBLIN,

*January 25, 1834.*



## APPENDIX, No. I.

AT the end of my former Letter I extracted, among other passages, from the Report of the Committee of the House of Commons (1832) on Secondary Punishments, the following:—

“ The punishment of mere transportation to New South Wales, as they will hereafter have occasion to show, is not sufficient to deter from the commission of crime, and as yet no means have been suggested of inflicting adequate punishment in the penal colonies without entailing a very great additional expense on the country. It is therefore necessary, that the more exclusively penal part of the sentence of criminals condemned to transportation, should be inflicted before they are sent to New South Wales.”

On this passage an intelligent writer in the Law Magazine [No. XIX. pp. 10, 11,] remarks:—

“ In other words, *because* transportation is sometimes a reward, and never a punishment, *therefore* it is to be used as a means of punishment: *because* transportation is not formidable, *therefore* it must be *added* to imprisonment, which *is* formidable, in order that the legislature may not too much discourage the commission of crime in England; that it may found a colony with



“ the dregs of a large nation, to be a spectacle of licentiousness and crime, such as the world never saw ; that  
“ the thieves may be drafted in order to injure the colony  
“ by the indulgence of their vicious propensities, and the  
“ mother country by the example of their prosperity.  
“ Such an arrangement would be like that of a shipowner,  
“ who, finding his vessel to be leaky and unsound, should  
“ purchase a new one, but continue to perform *half* the  
“ voyage in the old and dangerous bottom : or of the  
“ madman, who constantly put on the clean linen which  
“ his servant prepared for him, but resolutely refused to  
“ part with the dirty linen which he had already worn.  
“ When we consider the manifold evils which the transportation of convicts necessarily occasions, both to the  
“ society which sends, and that which receives them ;  
“ the incurable corruption caused by the close association  
“ during the voyage, the long delay arising from the distance of the colony, the impossibility of punishing  
“ persons at large, the uncertainty and inequality of the  
“ lot of convicts quartered upon different persons in town  
“ and country, the remoteness of the place of punishment  
“ from the persons on whom the example is to work, the  
“ disproportion of the sexes on account of the greater  
“ number of male convicts, the necessity, in governing a  
“ convict-society, of making the maintenance of order  
“ and the avoiding of expense, primary objects, and the  
“ punishment of convicts only a secondary object ; the  
“ necessity of establishing subsidiary Penal Settlements,  
“ in order to punish convicted convicts : when we consider all these and many other mischiefs, inseparable

"from every shade and modification of this pernicious system, we cannot forbear from entertaining the strongest conviction, that nothing short of its entire abolition ought to be acquiesced in, or from expressing a most anxious hope, that the legislature of this country will never be persuaded merely to *add*, instead of *substituting*, a real infliction of pain and suffering for this shadow and mockery of a punishment."

The addition proposed, of an efficacious to an inefficacious sentence, reminds one of the well-known tale of the man who pretended to make good soup of pebbles, by boiling them a sufficient length of time, *along with* sundry other ingredients, among which was a neck of mutton. In this case, however, the pebbles had at least the merit of doing no harm.

---

## APPENDIX, No. II.

(From the "*Examiner*," Sept. 15th, 1833.)

SURREY SESSIONS.—Tuesday, Sept. 10th.

*A Candidate for Transportation.* — George Jones was indicted for stealing a telescope, and a trifling amount of money, the property of an old man named Stevenson. The prosecutor was in the habit of attending fairs, and at the late fair at Mitcham he employed the prisoner, who was in a destitute condition at the time. On the

last day of the fair the prisoner, taking advantage of the confidence reposed in him, broke open a box, from which he took the property mentioned in the indictment.

The Jury returned a verdict of Guilty; and, it being the first offence, the Chairman sentenced the prisoner to six months' imprisonment. The prisoner implored the Court to send him out of the country. "There is no use," added he, "in locking me up in prison for a little time, for I shall come out worse than I went in, and must then, in earnest, be compelled to seek my bread by plunder. I therefore entreat the Court to transport me; for I shall do better in a foreign land than here." The prisoner's father here ascended the witness-box, and urged his son's request with great earnestness; at the same time saying, that the lad could not obtain work, and that he (the father) being unable to support him, he was therefore desirous that he should be sent to the Colonies, where he would have some chance of doing well.

The Chairman told the prisoner's father, that if the Court had sentenced his child to transportation for the offence, his life abroad would be that of slavery, in every sense of the word. The Chairman then inquired, if it was not the first time the prisoner had been tried, and the answer being in the affirmative, he said that the sentence could not be reversed; and added, that when the prisoner had undergone the punishment of his imprisonment, it was the duty of his parent to obtain employment for him, and keep him out of bad company.

*(From the "Examiner," Oct. 6th, 1833.)*

MARLBOROUGH STREET.

*A Candidate for Transportation.*—A labouring man, named Golding, nearly blind, was charged with having committed an act of felony.

A policeman said the defendant came up to him on Saturday, in Regent Street, and told him he had just stolen two pieces of sponge, which he produced. The policeman asked where he took them from, and he pointed out the shop of a tradesman in that street. The prisoner told him, that if he did not take him into custody, he would do something worse, for he was in such a state of destitution, that he wanted to be transported. The sponges, when produced, could not be identified; upon which Mr. Chambers said, the prisoner would, perhaps, find some difficulty in getting his wishes accomplished, as the law was not now so accommodating. The Magistrate thought the best way of ending the matter was by selling the sponges, and giving the prisoner the money, to help him to his parish at Carlisle. 'One of the officers gave five shillings for them, which were handed over to the prisoner, and he left the office very much astonished at his good luck.

*(From the "Examiner," Sept. 8th, 1833.)*

OLD BAILEY.—Friday, Sept. 7th.

W. Higan, a private in the first regiment of Guards, was convicted of stealing a small bag, containing two

shillings and sixpence, and some halfpence, from a woman whom he accosted in the street.

He cross-examined the prosecutrix very sharply, as to her habit of attending the barracks, and the degree of intimacy that existed between her and the soldiers. The Common Sergeant having sentenced him to seven years' transportation, he coolly answered, — "Thank you, my Lord; transportation is better than soldiering."

(*From the "Examiner," Oct. 20th, 1833.*)

MARLBOROUGH STREET.

*The Condition of a Convict preferred to that of a Soldier.*—Robert Blakie was charged, on Tuesday, with having stolen a silver watch, belonging to Ann Lamb. When the prisoner was first taken into custody, on Tuesday week, the prosecutrix betrayed such evident reluctance to press the charge, and prevaricated so grossly in her account of the transaction, that Mr. Conant directed he should be remanded until Tuesday last, in order that a full investigation should take place. When brought up for re-examination, the prosecutrix admitted that the statement she had made on the previous day was entirely false; and, in fact, that the prisoner, Robert Blakie, had stolen her watch. Policeman A. 77, who took Blakie, said he had every reason to believe that his prisoner was a deserter from the 90th Regiment of Foot, as he found a description in the *Hue and Cry* which exactly applied to him. Blakie said he was willing to save all further trouble, by confessing to the felony. He had taken the

watch, in the hope of being sent out of the country. Some time ago he had enlisted as a soldier, but he had lately got disgusted with the profession, and in order to make himself clear of the army, he preferred being sent to trial, and transported as a felon. Mr. Conant asked him if he had really committed the offence from a distaste to the military profession? The prisoner replied that it was really the case. While he was a soldier he felt himself little better than a slave; but if sent to New South Wales, he hoped in time to get his living at the trade he had been bred to, and, as a mechanic, to become a useful member of society. The prisoner was fully committed.

---

### APPENDIX, No. III.

*Extract from Report of the Prison Discipline Society.*

AN agent of the Prison Discipline Society, at the request of the warden of the prison, visited Montpellier, during the session of the Legislature, and, at the request of the governor, urged the importance of the measure upon the members of both branches of the Legislature, in joint meeting in the Representatives' Chamber, by a disclosure of many appalling facts from the interior of prisons, showing the necessity, in all such establishments, of solitary dormitories. A law was passed within a fort-

night, with almost entire unanimity, in favour of the measure.

As soon might you expect to turn from his wanderings an unfortunate youth, by introducing him into the companionship of a den of thieves, as into a penitentiary, in which opportunities for social intercourse, either by day or night, is admitted. The old offender takes delight in relating to his companions his cunning devices, his daring exploits, and his hairbreadth escapes; and the young, ever ready to seize upon the marvellous, rather than to nurture wholesome maxims, commit to memory lessons of depravity, as the foundation of their practice and future destiny. It has been very justly observed, that "our penitentiaries are so many schools of vice. They are so many seminaries to impart lessons and maxims calculated to banish legal restraint, moral consideration, pride of character, and self-regard. They have their watch-words, their technical terms, their peculiar language, and their causes and objects of emulation. Let us ask any sagacious observer of human nature, acquainted with the internal police of our prisons, to suggest a school where the commitment of the most pernicious crimes can be taught with the most effect; could he select a plan more fertile in the most pernicious results, than the indiscriminate society of knaves and villains of all ages and degrees of guilt?" It is in the cells that every right principle is eradicated, and every base one instilled. They are nurseries of crime, where the convict is furnished with the expedients and shifts of guilt, and, with his invention

“ sharpened, he is let loose upon society in a ten-fold degree a more daring, desperate, and effective villain ! ”

It is not yet four years since the passing of the law, providing for the present organization of the prison, and not quite two years since the completion of the new building, enabled the government to carry into full operation the system contemplated by that law. Even in this short period, the success of the system is obvious to the most careless observer, and is more and more conspicuous as the institution is more closely scrutinized. The nature and extent of the improvement can be realized only by comparing the former with the actual condition of the prison. Formerly, the facilities for the intercourse of the convicts with each other, and even with strangers, their controul of the money allowed them under the name of over-stint, and, above all, the confinement of several in the same cell, without superintendence during the night, gave them means and opportunities for corrupting each other, for evading the regulations, and defeating the objects of the prison, and for endangering the public peace. They were constantly engaged in plots, not only for their own escape, but for the perpetration of felonies by associates without the walls, or by those of their own number who were about to be liberated ; so that many of the most flagitious crimes committed in this vicinity, were contrived or suggested within the prison itself ; and it was by no means uncommon, immediately after the discharge of a convict, to hear of some new atrocity in the neighbourhood.

The recent and not yet hardened criminal, being here



exposed to the steady influence of the worst intercourse and the worst example, and far removed from every moral restraint, soon became familiar with every species of guilt, reckless of punishment, and the slave of vices which at once brutalized his intellect and prostrated his strength, till all were brought down nearly to a level with the most abandoned. At the same time, their various offences exposed them to frequent punishment, and kept them in perpetual apprehension of being detected by some officer, or betrayed by some companion. Devoted to such pursuits, and absorbed by such feelings, they seemed to regard themselves as the irreconcilable enemies of society, and became entirely inaccessible to all human sympathy, and to all moral or religious impressions. Obduracy was to them manliness, and every thing like compunction was a subject of ridicule. This state of things was not peculiar to our own prison; it belongs to all which are conducted on the same principles by which that was then regulated—to all in which the controul of money, a ready communication by day with each other, and unrestrained intercourse with several of their companions by night, are allowed to persons guilty of every crime not capital.

On the other hand, by the system now in operation here, the convicts are precluded from all intercourse with each other or with strangers, and are confined each in his solitary cell at night.

## APPENDIX, No. IV.

*To the Editor of "The Times."*

SIR,—I have been urged to give publicity to the facts contained in the following paper; and if it be calculated to excite in others the same profound interest and pity which led me to record them, it is, perhaps, my duty not to withhold them from the public; for among your readers there must be some who have the power to give something better than tears and sympathy to the unhappy beings whom England is, or believes herself to be, compelled to drive from her bosom. If any such read these details, it is possible that the abandonment of these poor offenders to all the desperation of inevitable and reckless vice, may in time become less absolute. If so, the hundred victims who perished in the *Amphitrite*, before my eyes, will not have perished wholly in vain.

It is, perhaps, necessary that I should say something as to the credibility of the evidence on which the subjoined statements are founded. What I can say is this: from the time that Owen and Rice, the two rescued seamen, were taken into the Marine Hotel, the one insensible, the other nearly so, to the time the former embarked for England, exactly a month, he was much within my sight or hearing. Having written to his friends at his dictation, and rendered other little services to him and his shipmate, it is natural that they should

have talked with greater freedom before me than before most other persons. Expressions which they let fall incidentally aroused my curiosity as to the condition of the women, which I saw had strongly excited the commiseration and disgust of both those men,—commiseration of the youthful, the penitent, the decent, and quiet,—disgust at the atrocious and the hardened. Even to these two young men, with no better lights than those of nature and humanity (the one having lived on the sea from five years old, and having taught himself to read and write, the other not having even that degree of instruction,) it was evident that there was cruelty and injustice in thus binding together half-extinguished virtue and inveterate vice, in this fore-dooming of female infancy to foulness and destruction. To those acquainted with men of their class, I need not say that this sentiment was not expressed in any general propositions, but was obvious from the manner of relating individual facts. Both told me that nothing on earth would induce them to sail again in a female convict vessel.

For my own satisfaction (if I may use the word) I therefore requested Owen to let me write down his answers to some questions on the subject, which he willingly did. What follows is the sum of his answers; my questions I did not write, they may be inferred. I am bound to add, and I am glad of any occasion to do justice to these poor men, that I never saw reason, in any one instance, to doubt their veracity,—that Owen's statements, particularly, from his superior intelligence and experience, had the greatest distinctness, and never, on

any one point, varied or conflicted, — that of the numerous inhabitants of the Marine Hotel, there is not one who will not gladly bear testimony to his constant sobriety, good conduct, and honourable feeling. Your English readers will pardon me for talking of the honour of a poor man, of which I could cite more than one instance, known to few besides myself. I think, therefore, such a man, having no conceivable interest to falsify the facts, may fairly be regarded as a credible witness, particularly as his evidence is confirmed by his shipmate. It will be sufficiently obvious, that I wrote down what he said nearly verbatim.

There is one passage which I hesitated to publish, from the fear that it might wound the most excellent lady mentioned in it; not for her own sake, for ingratitude can wound her only as an indication of failure in her benevolent attempts at the culture of virtuous feelings, but for the sake of the unhappy beings whom habitual vice has steeled against such cares as her's. But till we know the extent of the evil, we cannot resort to new remedies with any chance of success; till we see how and why one system had failed, it is pains thrown away to look for another. It is therefore right that this excess of depravity, in one class of convicts, should be known through its peculiar symptoms.

I have only to add, that no individual whatever has had the least share in the preparation of the following paper, and that whatever of blame may attach to it, is due solely to myself. I am, Sir, yours obediently,

*Boulogne-sur-Mer, Oct. 7.*

\* \* \*

P. S. I ought to have mentioned that Owen said he had a list of the women's names, the places they came from, and, I think, their offences. This, with every thing he possessed, was lost.

*Facts relating to the Condition and Treatment of Female Convicts, on their Passage to Botany Bay; collected from the Mouth of John Owen, Boatswain of the Amphitrite Female Convict Vessel, wrecked off Boulogne, Aug. 31, 1833, and confirmed by John Richard Rice, Seaman of the same.*

There were 108 female prisoners on board the vessel: twelve of these women had children with them. The ages of the prisoners were from about twelve to about fifty; those of the children, from about five weeks to about nine years, excepting one girl of fourteen.

The children were always with the women; there was no attempt at separation; they were all together. The women slept three in a bed. The beds ran the whole length of the ship, fore and aft. Between every three beds was a board. The women who had a child had two other women also in their beds. The women all seemed very tender mothers, with the exception of one old Scotchwoman, who treated her child very cruelly; it was a boy of three years old. Owen remembers only one woman who instructed her child — a boy of seven or eight. She used to teach him to read regularly every day. He was a natural child. The woman had been a prostitute, and came from Ratcliffe-highway. Her name was ———. The language and behaviour of some of the women was outrageous and disgusting beyond any

thing the men had ever heard. Owen has frequently been obliged to throw pails of water over them, as the only means of keeping them at a distance from the crew. All this language and behaviour the children were exposed to hear and see night and day. He believes it to be the general rule on board female convict vessels, that there should be no communication between the prisoners and the crew, and that the former do not go to the fore part of the ship. The women on board the *Amphitrite* had the range of the deck. The doctor let them go where they liked; he never took any notice if they did not make a riot. The doctor had the sole management of them; never heard him expostulate, advise, or in any way converse with them. There was no attempt at restraint, instruction, or government of any kind; only, if one was riotous, he had her brought upon deck, and put into a thing like a watch-box, in which they could not sit, and could only just stand upright. It was very strongly built: no opening, except some small holes at the top to admit air. The women were sometimes shut up in this for hours at a time. This was the only punishment. There was no reward or encouragement for good conduct: no attempt to keep them employed. The captain never interfered with them in any way; it was not his business. The only order he ever gave them was, to bring up their beds on deck every fine morning. That was the only thing they were ever set to do: all their other employment was at their own pleasure. The doctor's wife never spoke to any of them, nor took any notice of them, except to call Poole, the woman who

attended upon her. There was no divine service on board. Each woman had a Bible given her at Woolwich, by Mrs. Fry, and two other Quaker ladies. Most of them could read and write. Those from Newgate had been taught in the school there. Mrs. Fry and the other ladies came on board at Woolwich four or five times, and read prayers. Most of the women sewed a good deal. Almost all had a trunk or box of clothes. Part of these were furnished by Government, or by the counties from which they came.

In reply to my inquiries as to the previous life and habits of the women, the sum of Owen's answers was as follows: — Forty of the women were from Newgate. Most of these were very young; the oldest did not seem above thirty. Many of them were from Ratcliffe-highway and from Westminster; some from Chelsea. Most of them had been prostitutes: some were very hardened and outrageous. Those who had been in Newgate the longest were the worst. It was Owen's place, as boatswain, to sling the chair for Mrs. Fry and the other ladies, when they came on board. He heard the Newgate girls wish she might fall overboard and be drowned. Some of them appeared very well disposed. He thinks if they had been kept from the bad ones, and taken pains with, they would have behaved very well. All the girls on board, under the age of fifteen or sixteen, were from Newgate.

There were eighteen women from Scotland. These were the worst, and most ferocious and hardened on board. They were almost all above forty: only one

young woman among them. There was not one tolerably decent. Their language was the most disgusting that can be conceived, and they were always quarrelling and fighting, and stealing from the other women. Owen does not remember what were their offences. Several of them had children. One had a daughter on board, fourteen years of age; she had been in the hospital nearly from the time they sailed, and was not expected to live.

Owen does not recollect how many Irish women there were. The number was not great. There were none remarkably bad among them. None of them had children.

The best behaved of the women were from the counties of England, particularly three from Worcestershire. They were all young. They had all been prostitutes at Worcester, and were transported for some acts of violence towards the police. The eldest was twenty-three. Her name was ———. She was extremely beautiful. These three girls always kept together, and did not associate with the others. They were always quiet and well behaved. They used to sit together constantly, reading the Bible and other books, sewing, and singing hymns. When they sailed, two of them were put into the same bed with one of the Newgate women. The next morning they complained to the doctor, that they could not bear to sleep with her, her language and behaviour were so indecent and offensive to them. They were then allowed to sleep with the other Worcester woman. Two were *enceinte*, and would have been brought to bed on



board. When the ship struck, —— was the only one who did not go down to fetch a bundle of clothes. They expected to go ashore in the boats. Owen asked her why she did not; she said, if she could save her life, she did not mind the rest. He fetched her bonnet for her. After this he saw no more of her.

There was one woman, of about twenty-eight, from Nottingham; she was very quiet and steady; she used to wait on the doctor's wife; her name was Poole; she had a great quantity of clothes. There was one from Hull, of about twenty-two, very quiet. Several from Manchester and from Norwich. Remembers nothing remarkable about them. Two from Liverpool, extremely bad; never saw more abandoned girls; the eldest was not more than seventeen. Does not remember any from the west of England. There was one Welch girl, not above nineteen; she could not speak a word of English: the others robbed her the first day she came on board. She was the most dejected of the whole. She used to stand at the gangway from morning till night, looking on the water, and crying. For a fortnight they could not get her to eat; she would take nothing but a drink of cold water, or now and then an apple or a pear. Owen thinks she was from Beaumaris. Forgets what was her crime. She was perfectly quiet.

Owen observed very little kindness among the prisoners. They did not generally seem to be dejected, nor to regard transportation as a punishment. A great many said they never meant to go back to England. Only three were transported for life. One of them was from

Newgate, and one from Scotland; forgets where the other came from. Some had been in Newgate four or five months: these were the worst.

---

## APPENDIX, No. V.

### *Extracts from Remarks of the French Commissioners on the American System of Secondary Punishments.*

THE punishment of Transportation intimidates no one, and emboldens many in the path of crime. To avoid the immense expense incurred by keeping the convicts under guard in Australia, England, as we have just seen, restores a great number to liberty, soon after they set foot in the penal colony.

\* \* \* \* \*

It is true, that from this combination of efforts, it sometimes results, that the man, rejected by the mother-country, becomes a useful and respected member of society in the Colony; but we still more frequently see him, whom the fear of punishment would have forced to lead a regular life in England, infringing the laws which he might have respected, because the punishment with which he is threatened, has nothing to terrify him, but often rather flatters his imagination, than checks him in his career.

“Numbers of convicts,” says Mr. Bigges, in his Report

## 162 *Remarks of the French Commissioners*

to Lord Bathurst, “are detained in Australia much more  
“by the facilities for subsisting, the chances of gain they  
“there meet with, and the freedom of manners which  
“prevails, than through the vigilance of the police,—a  
“singular punishment, we must allow, from which the  
“condemned fear to escape! In fact, to many English-  
“men, transportation is little more than an emigration  
“to the Austral settlements at the expense of the state.”  
This consideration could not fail to occur to a people  
justly renowned for skill in the art of governing the  
community.

We also find, in an official letter, written by Lord  
Bathurst, on the 6th of January, 1819, this declaration,—“The terror at first inspired by transportation  
“gradually diminishes, and crimes increase in the same  
“proportion.” They have increased beyond all calculation. The number of those condemned to transportation, which in 1812 was 662, had, in fact, successively  
risen to 3,130, in the year 1819, the period of Lord B.’s  
letter; and in 1828 they amounted to 4,500.

The partisans of the system of transportation cannot  
deny these facts; but they say that the system has,  
at least, this result,—the rapid foundation of a Colony  
which quickly returns to the mother-country in riches  
and power more than it has cost her. Thus considered,  
transportation is no longer a penal system, but a method  
of colonization. In this point of view it deserves to  
occupy, not only the attention of the friends of humanity,  
but of statesmen, and also of all those who  
exercise any influence over the destiny of nations.

We do not ourselves hesitate to say, the system of transportation appears to us as ill appropriated to the formation of a colony, as to the suppression of crimes at home. Without doubt it pours into the country they wish to colonize, a population who would not, perhaps, of themselves, have gone there; but the state gains little from these precocious fruits, and it might have been desirable to leave things to follow their own course. And first, if the colony really increases with rapidity, it soon becomes difficult to maintain the penal establishment with little expense. The population of New South Wales, in 1819, consisted only of about 29,000 inhabitants, and the care of them was already become difficult; already the idea of erecting prisons to shut up the convicts has been suggested to the government, being precisely the European system, with its vices, at the distance of 5,000 leagues.

\* \* \* \* \*  
\* \* \* \* \*

The colonies of Australia will be the more ready to renounce their connexion with England, as there exists in the hearts of the inhabitants little good-will towards her. And this is one of the most fatal effects of the system of transportation applied to the colonies. In general nothing is more tender than the feeling which binds the colonists to the soil which has given them birth. In spite of the ocean which divides them, early recollection, habit, interest, prejudice, all still unite them to the mother-country. Many European nations have derived, and continue to derive both strength and glory

from these distant connexions. One year before the American revolution, the colony whose fathers had, a century and a half back, left the shores of Great Britain, still spoke of England as their home. But the name of the mother-country only recalls to the memory of the transported the remembrance of miseries sometimes unmerited. It is there that he has been unfortunate, persecuted, guilty, dishonoured. What ties unite him to a country, where, most generally, he has left no one who is interested in his fate? How can he wish to establish commercial or friendly connexions with home? Of all parts of the globe, that in which he was born seems to him the most odious. It is only the place in which his history is known, and where his shame has been divulged.

We can scarcely doubt but that these hostile feelings of the colonist are perpetuated in future generations; and in the United States, we may still recognize the Irish, among this rival people of England, by their hatred to their former masters. The system of transportation is, then, fatal to mother-countries, as it enfeebles the natural ties which ought to unite them to their colonies; it also prepares for these infant nations a futurity of storm and misery.

The partisans of penal colonies do not fail to cite the example of the Romans, with whom the conquest of the world was preceded by a life of plunder. But the facts of which they speak are remote; others more conclusive have passed almost under our own observation; and we cannot think it necessary to refer to

examples given at the distance of 3,000 years, when the present speaks so loudly.

Some few sectaries landed, towards the beginning of the seventeenth century, on the coasts of North America; they there formed almost in secret a society founded on liberty and religion. This band of pious adventurers has since become a great people, and the nation created by them has remained the freest and most faithful in the world. In an island depending on the same continent, and almost at the same epoch, a band of pirates, the scum of Europe, came to seek an asylum. These depraved, but intelligent men, also established there a society, which soon forsook the predatory habits of its founders. It became rich and enlightened, but remained the most corrupt people in the world, and its vices prepared the bloody catastrophe which terminated its existence. In fine, without seeking the examples of New England and St. Domingo, it would suffice us, in order to make our view of the subject better understood, to expose what passes in Australia itself.

Society in Australia is divided into different classes, as distinct and inimical to each other as the different classes of the middle age. The criminal is exposed to the contempt of him who has obtained his liberty; he, to the outrage of his own son, born free; and all, to the pride of the colonist whose origin is without blemish. They resemble four hostile nations meeting on the same soil. We may judge of the feelings which animate these different members of the same people, by the following

166 *Remarks of the French Commissioners*

extract from the Report of Mr. Bigges :—" As long as " these sentiments of jealousy and enmity subsist," says he, " the introduction of trial by jury into the colony " must not be thought of. In the actual state of things, a " jury composed of former criminals cannot fail to combine " against an accused person belonging to the class of free " colonists; in the same manner, juries chosen from among " free colonists, will always think they show the purity of " their own class in condemning an old convict against " whom a second accusation should be directed."

In 1820 only an eighth of the children received any instruction in Australia. The government of the colony, however, opened public schools at its own expense; knowing, as Mr. Bigges remarks, that education only can overcome the fatal influence exercised by the vices of their parents. In fact, what is most wanting in the Australian society, is purity of manners. And how can it be otherwise? In a community composed of simple elements, the force of example, and the influence of public opinion, can scarcely restrain human passions. In 1828, out of 36,000 inhabitants of Australia, 23,000, or nearly two-thirds, belonged to the class of criminals. Australia was then placed in this singular position, that vice had the support of the majority. The women also had lost those traces of modesty and virtue which characterize their sex in the mother-country, and the greater part of its free colonies; though the government encouraged marriage as much as possible, and often at the expense of discipline, the fourth part of the children were bastards. There is also a cause, in some degree

material, which is opposed to the establishment of good manners in penal colonies, and which, on the contrary, facilitates irregularities and prostitution.

In all countries women commit infinitely fewer crimes than the men. In France, women only form a fifth of the condemned ; in America, only a tenth. A colony partly founded by the aid of transportation, necessarily presents a great disproportion in number between the two sexes. In 1828, out of the 36,000 inhabitants of Australia, they could only reckon 8,000 women, or less than a fourth of the whole population. Now we may easily conceive, and experience also proves, that if the manners of a people are pure, the two sexes will be found pretty nearly on a level with each other. But not only infringements of moral precepts are frequent in Australia ; more crimes are there committed against the positive laws of society, than in any other country. The annual number of executions in England is about sixty, while in the Australian colonies, which are governed by the same legislation, peopled with men belonging to the same race, and which yet contain only 40,000 inhabitants, they reckon from fifteen to twenty executions every year.

In fine, among the English colonies, Australia is the only one deprived of that precious civil liberty which has constituted the glory of England, and the strength of her children in all parts of the world. How could the functions of a jury be confided to men who have just been condemned in an English court ? And can the direction of public affairs be entrusted without danger



to a population harassed by its vices, and divided by a mutual hatred?

We must allow that transportation may succeed in rapidly peopling a desert country ; it may form free colonies, but not solid and peaceful communities. The vices which we thus remove from Europe are not destroyed, they are only transported to another soil ; and England only expels a part of her refuse to bequeath them to her children of her Austral dominions.

---

## APPENDIX, No. VI.

### *Extract from the Prospectus of the South Australian Association.*

It will be proposed for the consideration of His Majesty's Government, that the Charter of Incorporation shall contain provisions (amongst others) to the following effect :

I. The Colony to be erected into a Province under the name of South Australia, extending from the 132d to the 141st degree of East longitude, and from the South coast including the adjacent islands northward to the tropic of Capricorn.

II. The whole of the territory within the above limits to be open to settlement by British subjects.

III. Provided that within the said limits, no waste or public land shall become private property, save by one means only; viz. by purchase at a fixed minimum price, or as much above that price as the competition of public auction may determine.

V. That the Trustees be empowered, within certain limits, to increase the minimum price of land from time to time, so as to adjust the ratio between the appropriated land and the population of the colony, as experience may dictate.

VIII. That the whole of the purchase money of waste or public land be employed in conveying labourers, natives of the British Isles, to the Colony.

IX. That the emigrants conveyed to the Colony with the purchase-money of waste land, be of the two sexes in equal numbers, and that the Corporation be bound to give a preference amongst the applicants for a passage cost free, to young married persons not having children; so that for any given outlay of their money, the purchasers of land may obtain the greatest amount of labour to cultivate the land, and of population to enhance its value.

X. That until the Colony be settled, and the sales of waste or public land shall have produced an emigration fund adequate to the want of labour in the Colony, the Corporation of Trustees have authority to raise money on loan by the issue of bonds or otherwise, bearing colonial interest, for the purpose of conveying selected labourers to the Colony; so that the first body of emigrating capitalists going out to buy land, may, from the

first, be supplied with labour. And that until such loan or loans be repaid with interest, the Corporation be held bound to apply all the net proceeds of the sales of land in repayment of such loans.

---

## APPENDIX, No. VII.

THE sentiments of Bacon on this point are probably what a writer in the Law Magazine thus expresses:—  
“ Colonies are subordinate political societies belonging  
“ to the society which is their mother-country, subject  
“ with her to one sovereign power, and equally entitled  
“ to its protection and consideration. To establish a  
“ colony, therefore, in order to serve as a drain for the  
“ impurities of the mother-country, is to do an act which  
“ no casuistry can defend ; nor has any one a right to  
“ complain if, as unquestionably must happen, it redounds  
“ to the mischief of the mother-country. Even if it  
“ were possible, by founding a new society with the  
“ worst outcasts of a large nation, to exterminate or  
“ greatly reduce the body of persons who live by the  
“ commission of crime, nothing could, in our opinion,  
“ justify such a measure. In a large nation, the dis-  
“ charged convicts, whether criminals or not, could  
“ never, under a tolerable penal system, make a large  
“ part of the whole population ; and if criminals are

“ mischievous when they form a small part of the com  
“ munity, what must they be when they form the whole?  
“ The fable of the old man and the bundle of sticks, it  
“ should be remembered; is as true of the union of bad  
“ as of good men! But it is *not* possible to reduce the  
“ number of criminals by drafting off convicts to a place  
“ of reward; and we may say of transportation without  
“ punishment, what has been said of emigration without  
“ amendment of the poor laws, that ‘ to attempt to dimi-  
“ nish crime by removing a portion of criminals, and yet  
“ leaving in full force the most powerful machinery ever  
“ applied to the increase of crime, is to attempt to ex-  
“ haust by continual pumping the waters of a perpetual  
“ fountain.’ There is no doubt that wicked men, intent  
“ on the commission of crime, whether they have been  
“ convicted or not, are an evil to a country; nevertheless  
“ they are a less evil in the mother-country than in a  
“ penal colony. Poisons which are almost harmless,  
“ when extenuated and diffused in a large mass, work  
“ with a fatal vigour if taken in a concentrated and  
“ separate form. Nor is it a simple question of nume-  
“ rical proportion, whether a bad man is more mis-  
“ chievous with ninety-nine good men or ninety-nine  
“ bad men; but the future increase of the one bad man  
“ is likewise to be considered. In the midst of a large  
“ society, discountenanced by the general opinion,  
“ neglected and shunned by their relations and friends,  
“ outstripped by the industrious, opprest with the sense  
“ of disgrace, blighted in all their prospects by the  
“ knowledge of their dishonesty, rarely marrying on

“ account of their bad character and irregular habits,  
“ criminals commonly terminate by an early death their  
“ career of riot, dissipation, debauchery, wretchedness,  
“ and outrage, and sink into the great ocean of society  
“ ‘without a grave, unknelled, uncoffined, and unknown.’  
“ Such is the way in which the propagation of vice is  
“ hindered in the regular order of society; we, however,  
“ in our wisdom, thinking to improve on this arrange-  
“ ment, and too impatient of the presence of the vicious  
“ to await their natural extinction, save them from this  
“ moral shipwreck, and collect them into one spot, where  
“ there is no example to deter, no virtuous public opinion  
“ to discountenance, no honest industry to compete with  
“ them, no odious comparisons to be undergone; and  
“ then insuring always a regular supply of additional  
“ recruits from the gaols of the mother-country, like the  
“ physical philosophers of antiquity, from this corruption  
“ we generate a new society.”

THE END.

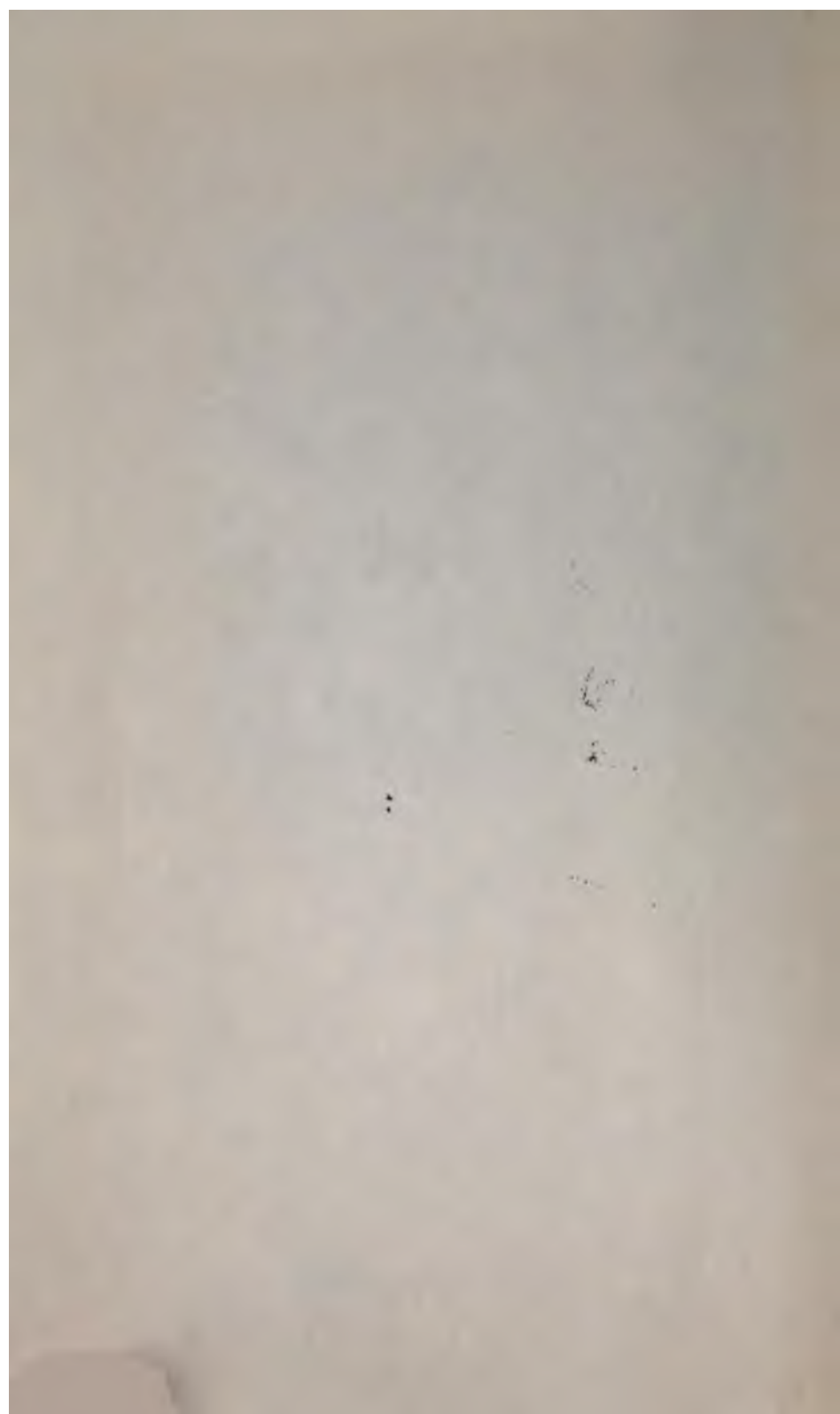
---

R. CLAY, PRINTER, BREAD-STREET-HILL.

606

740X C 55 1





3 14 0 1 0

THE BORROWER WILL BE CHARGED  
THE COST OF OVERDUE NOTIFICATION  
IF THIS BOOK IS NOT RETURNED TO  
THE LIBRARY ON OR BEFORE THE LAST  
DATE STAMPED BELOW.

BOOK DUE-WJD

DEC 18 1978

CANCEL

MAR 20 1987

2217440

WIDENER

WIDENER

MAR 20 2002

MAR 27 2002

CANCELLED

BOOK DUE



